

PIRACY DETERRENCE AND EDUCATION ACT OF 2003

HEARING BEFORE THE SUBCOMMITTEE ON COURTS, THE INTERNET, AND INTELLECTUAL PROPERTY OF THE COMMITTEE ON THE JUDICIARY HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTH CONGRESS

FIRST SESSION

ON

H.R. 2517

JULY 17, 2003

Serial No. 37

Printed for the use of the Committee on the Judiciary



Available via the World Wide Web: <http://www.house.gov/judiciary>

U.S. GOVERNMENT PRINTING OFFICE

88-395 PDF

WASHINGTON : 2003

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800
Fax: (202) 512-2250 Mail: Stop SSOP, Washington, DC 20402-0001

COMMITTEE ON THE JUDICIARY

F. JAMES SENSENBRENNER, JR., Wisconsin, *Chairman*

HENRY J. HYDE, Illinois	JOHN CONYERS, JR., Michigan
HOWARD COBLE, North Carolina	HOWARD L. BERMAN, California
LAMAR SMITH, Texas	RICK BOUCHER, Virginia
ELTON GALLEGLY, California	JERROLD NADLER, New York
BOB GOODLATTE, Virginia	ROBERT C. SCOTT, Virginia
STEVE CHABOT, Ohio	MELVIN L. WATT, North Carolina
WILLIAM L. JENKINS, Tennessee	ZOE LOFGREN, California
CHRIS CANNON, Utah	SHEILA JACKSON LEE, Texas
SPENCER BACHUS, Alabama	MAXINE WATERS, California
JOHN N. HOSTETTLER, Indiana	MARTIN T. MEEHAN, Massachusetts
MARK GREEN, Wisconsin	WILLIAM D. DELAHUNT, Massachusetts
RIC KELLER, Florida	ROBERT WEXLER, Florida
MELISSA A. HART, Pennsylvania	TAMMY BALDWIN, Wisconsin
JEFF FLAKE, Arizona	ANTHONY D. WEINER, New York
MIKE PENCE, Indiana	ADAM B. SCHIFF, California
J. RANDY FORBES, Virginia	LINDA T. SANCHEZ, California
STEVE KING, Iowa	
JOHN R. CARTER, Texas	
TOM FEENEY, Florida	
MARSHA BLACKBURN, Tennessee	

PHILIP G. KIKO, *Chief of Staff-General Counsel*

PERRY H. APELBAUM, *Minority Chief Counsel*

SUBCOMMITTEE ON COURTS, THE INTERNET, AND INTELLECTUAL PROPERTY

LAMAR SMITH, Texas, *Chairman*

HENRY J. HYDE, Illinois	HOWARD L. BERMAN, California
ELTON GALLEGLY, California	JOHN CONYERS, JR., Michigan
BOB GOODLATTE, Virginia	RICK BOUCHER, Virginia
WILLIAM L. JENKINS, Tennessee	ZOE LOFGREN, California
SPENCER BACHUS, Alabama	MAXINE WATERS, California
MARK GREEN, Wisconsin	MARTIN T. MEEHAN, Massachusetts
RIC KELLER, Florida	WILLIAM D. DELAHUNT, Massachusetts
MELISSA A. HART, Pennsylvania	ROBERT WEXLER, Florida
MIKE PENCE, Indiana	TAMMY BALDWIN, Wisconsin
J. RANDY FORBES, Virginia	ANTHONY D. WEINER, New York
JOHN R. CARTER, Texas	

BLAINE MERRITT, *Chief Counsel*

DEBRA ROSE, *Counsel*

DAVID WHITNEY, *Counsel*

MELISSA L. McDONALD, *Full Committee Counsel*

ALEC FRENCH, *Minority Counsel*

CONTENTS

JULY 17, 2003

OPENING STATEMENT

	Page
The Honorable Lamar Smith, a Representative in Congress From the State of Texas, and Chairman, Subcommittee on Courts, the Internet, and Intellectual Property	1
The Honorable Howard L. Berman, a Representative in Congress From the State of California, and Ranking Member, Subcommittee on Courts, the Internet, and Intellectual Property	2

WITNESSES

Ms. Jana D. Monroe, Assistant Director of Cyber Division, Federal Bureau of Investigation	
Oral Testimony	6
Prepared Statement	7
Mr. David P. Trust, Chief Executive Officer, Professional Photographers of America	
Oral Testimony	10
Prepared Statement	12
Ms. Linn R. Skinner, Proprietor, Skinner Sisters	
Oral Testimony	14
Prepared Statement	16
Ms. Maren Christensen, Vice President, Intellectual Property Counsel, Universal Studios	
Oral Testimony	61
Prepared Statement	62

LETTERS, STATEMENTS, ETC., SUBMITTED FOR THE HEARING

Prepared statement of the Honorable Howard L. Berman, a Representative in Congress From the State of California, and Ranking Member, Subcommittee on Courts, the Internet, and Intellectual Property	4
Letter from Marybeth Peters, Register of Copyrights, Library of Congress to Rep. Lamar Smith	71

APPENDIX

MATERIAL SUBMITTED FOR THE HEARING RECORD

Prepared statement of the Honorable Bob Goodlatte, a Representative in Congress From the State of Virginia	79
Prepared statement of the Honorable Zoe Lofgren, a Representative in Congress From the State of California	80
Prepared statement of American Free Trade Association	80
Prepared statement of Gary J. Shapiro, Chairman, The Home Recording Rights Coalition	82
Prepared statement of Susan Poole	85

PIRACY DETERRENCE AND EDUCATION ACT OF 2003

THURSDAY, JULY 17, 2003

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON COURTS, THE INTERNET,
AND INTELLECTUAL PROPERTY,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Subcommittee met, pursuant to call, at 1 p.m., in Room 2141, Rayburn House Office Building, Hon. Lamar Smith (Chair of the Subcommittee) presiding.

Mr. SMITH. The Subcommittee on Courts, the Internet, and Intellectual Property will come to order. I am going to recognize myself and the Ranking Member for our opening statements. Other Members, without objection, will have their opening statements made a part of the record, after which I will introduce the witnesses and we will look forward to their testimony.

I need to make everyone here aware, however, that about 1:30 we are expecting not 1 but 6 votes on the House floor, and so we are going to need to break when those votes are called, and it will probably be about a 30- or 40-minute recess that we will need to take, but then we will return and resume our hearing after that. I will recognize myself for an opening statement.

Today the Subcommittee will consider H.R. 2517, the "Piracy Deterrence and Education Act of 2003."

The digital revolution has enriched the lives of Americans while changing the nature of many crimes, including theft of intellectual property. Piracy of intellectual property over the Internet, especially by peer-to-peer networks, has reached alarming levels. Finding effective means to reduce on-line piracy is the subject of intense public debate.

Although the Copyright Act already provides civil and criminal remedies for intellectual property infringement online, aggrieved copyright owners have largely chosen not to pursue these remedies. Hesitant to initiate prosecutions against their customers, copyright owners have instead sued the networks facilitating and promoting online piracy in an effort to reduce that rampant piracy. That hasn't worked.

Testimony received at congressional hearings and recently issued Federal court rulings have noted the availability of civil and criminal remedies and encouraged copyright owners to prosecute individuals engaged in online piracy. It is widely believed that the successful prosecution of even a few online pirates will have a signifi-

cant deterrent effect on individuals who may engage in that practice.

In fact, almost immediately after the Recording Industry Association of America brought lawsuits against four students operating file-sharing networks on university computer systems, similar student-run networks shut down. As a result, large entertainment companies currently are pursuing a more aggressive litigation strategy to defend their rights.

In trying to initiate Federal prosecutions of online infringers, copyright owners have often found it difficult to persuade law enforcement authorities to investigate and prosecute these crimes. Congress has directly and indirectly asked the Federal law enforcement agencies to increase investigations and prosecutions of intellectual property crimes on- and off-line.

Specific departments devoted to intellectual property and the Internet have been created. Increases in funding have been authorized. Legislation such as the NET Act have been passed, and letters have been written, all to increase the prosecution of online intellectual property crimes.

Law enforcement officials must be more aggressive in their enforcement of existing law. We can always strive to improve the law—as we are in the process of doing today—regarding cooperation, but why should we pass new and tougher laws when existing copyright laws are not enforced, or at least not enforced adequately?

Law enforcement devotes its time and resources to other crimes, because many believe copyright violations such as downloading songs from the Internet are not important. This week the “Today Show” ran a sympathetic story that quoted a parent who approves of her child illegally downloading songs. The parent said it was sharing, not stealing. Do I believe this parent should go to jail? Of course not. That is because penalties in current law are strong. They simply need to be enforced.

H.R. 2517 further increases cooperation among Federal agencies and intellectual property owners and assists the Department of Justice in its efforts to prosecute intellectual property theft. And before I close, I want to commend the FBI and the Department of Justice on the investigation and prosecution of the individual who made an unauthorized digital copy of the movie “The Hulk” and uploaded it on to the Internet in advance of the movie’s commercial release, and we are told that cost the producers about \$20 million in lost revenue.

I look forward to learning more about why this case was successful and how H.R. 2517 will further enhance criminal enforcement of intellectual property crimes. Now, that concludes my opening statement, and the gentleman from California Mr. Berman is recognized for his opening statement.

Mr. BERMAN. Well, thank you very much, Mr. Chairman. As you mentioned, we have both enforcement of copyright laws through civil actions by copyright owners themselves, and under the Copyright Act the Federal Government has the power to bring criminal cases against egregious infringers. That criminal enforcement provides an important deterrent against infringement by otherwise judgment-proof defendants.

Furthermore, as Ms. Skinner will testify today, many individual copyright owners simply cannot afford the expense of bringing civil copyright cases. Infringers can often better afford the expense litigation than individual creators like photographers and needlepoint designers. As a result, in many cases criminal enforcement provides the only credible deterrent to infringement.

The sheer scale of online infringement indicates that millions of Internet users today do not consider credible the threat of jail time for copyright infringement. The 4 million people publicly trafficking in over 850 million mostly copyrighted files on Kazaa at any one time clearly do not fear jail time. The folks distributing tens of thousands of pages of infringing needlework designs through online affinity groups clearly do not fear jail time.

According to the exhibits appended to Ms. Skinner's testimony, many brazenly challenge her in writing to do something about it. We need to turn this ship around before the pirates scuttle it. We need more aggressive enforcement of criminal copyright laws.

H.R. 2517 will significantly improve the ability of law enforcement to enforce criminal copyright laws, and I am proud to be a sponsor—cosponsor. Among other things, the bill directs the FBI to warn online infringers they may be subject to criminal prosecution. Furthermore, such FBI warnings will serve an important educational role in an environment where so much disinformation leads many file traffickers to believe their actions are illegal. Finally, such FBI warnings will perform these salutary goals without forcing either law enforcement or individual file traffickers to shoulder the monetary and social costs of a criminal case.

I want to highlight section 6(a) of the bill which enables the Government to bring a criminal suit with regard to an unregistered work. Works are copyrighted from the moment of creation, but for a variety of reasons the Copyright Act prohibits both civil and criminal infringement suits until the work is registered in the Copyright Office. This registration requirement poses a substantial barrier to the protection of new or pre-released works. Such a huge percentage of revenue from work such as books, movies and software is generated in the first weeks after their release. Widespread Internet infringement of new or pre-released works can eviscerate the revenue generated. By letting the Government bring criminal actions with regard to unregistered works, section 6(a) will ensure that protection is available to copyrighted works when they are in their most vulnerable state.

While H.R. 2517 makes critical contributions to the enforcement of criminal copyright laws, I think more can be done. It is for this reason that yesterday Representative Conyers and I introduced H.R. 2752. I think it complements the provisions of H.R. 2517. While this hearing is on H.R. 2517, I want to take just a moment to describe the most critical portions of H.R. 2752. Section 201 addresses a unique law enforcement challenge posed by the increasingly transnational character of online copyright infringement. In order to ensure that the road across the border does not become an investigative dead end, section 201 requires the Attorney General to assist the appropriate foreign authority in making a case against such online infringers.

Section 301 of that bill clarifies that the uploading of a single copyrighted work to a publicly accessible computer network meets the 10-copy, \$2,500 threshold for felonious copyright infringement. Section 301 simply brings the law into accord with the reality that uploading a copyrighted work to a place from which millions can download it is equivalent to the distribution of 10 or more copies having a value of \$2,500. We do this because some prosecutors appear skeptical that they can successfully pursue cases against many uploaders of copyrighted works otherwise.

Section 302 addresses the well-documented concern that popular peer-to-peer software programs sometimes allow third parties to hijack personal computers to distribute child pornography and copyright infringing material, come bundled with spyware, and otherwise jeopardize the privacy and security of PC owners.

Section 302 requires that PC owners receive clear and conspicuous notice and provide consent prior to downloading software that would allow third parties to store material on their personal computer or use that personal computer to search for material on other computers.

Finally, section 305 addresses the all too common phenomenon of operators of copyright-infringing Web sites providing false domain registration information. If the illegal activities on the Web site attract the attention of law enforcement or rightholders, the operators often disconnect it and pop up elsewhere under another domain name with different contact information.

Section 305 directs the courts to consider the knowing and intentional provision of materially false domain registration information as evidence of willfulness with regard to copyright infringements.

Mr. Chairman, I thank you. Look forward to working with you on the issue and yield back.

Mr. SMITH. Thank you, Mr. Berman.

[The prepared statement of Mr. Berman follows:]

PREPARED STATEMENT OF THE HONORABLE HOWARD L. BERMAN, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. Chairman,

I commend you for introducing H.R. 2517, and for convening this hearing.

The Copyright Act envisions that enforcement of the copyright laws generally falls to copyright owners themselves. However, the Copyright Act also provides the federal government with power to bring criminal cases against egregious infringers.

Enforcement of the criminal copyright laws provides an important deterrent against infringement by otherwise judgement-proof defendants. Furthermore, as Ms. Skinner will testify today, many individual copyright owners simply cannot afford the expense of bringing civil copyright cases. In fact, infringers often can better afford the expense of litigation than individual creators like photographers and needlepoint designers. As a result, in many cases, criminal enforcement provides the only credible deterrent to infringement.

The sheer scale of online infringement indicates that millions of Internet users today do not consider credible the threat of jail time for copyright infringement. The 4 million people publicly trafficking in over 850 million mostly-copyrighted files on KaZaA at any one time clearly do not fear jail time. The folks distributing tens of thousands of pages of infringing needlework designs through online affinity groups clearly do not fear jail time. In fact, according to the exhibits appended to Ms. Skinner's testimony, many brazenly challenge her, in writing, to do something about it.

We need to turn this ship around before the pirates scuttle it. We need more aggressive enforcement of the criminal copyright laws. We also need to ensure that law enforcement has adequate resources, authority, and incentives to pursue online infringers.

H.R. 2517 will significantly improve the ability of law enforcement to enforce the criminal copyright laws, and I am proud to be a sponsor. Among other things, the bill directs the FBI to warn online infringers that they may be subject to criminal prosecution. An FBI warning is likely to grab the attention of even your most defiant file-trafficker. Furthermore, such FBI warnings will serve an important educational role in an environment where so much disinformation leads many file-traffickers to believe their actions are legal. Finally, such FBI warnings will perform these salutary goals without forcing either law enforcement or individual file-traffickers to shoulder the monetary and social cost of a criminal case.

I also want to highlight Section 6(a), which enables the government to bring a criminal suit with regard to an unregistered work. Works are copyrighted from the moment of creation, but for a variety of reasons, the Copyright Act prohibits both civil and criminal infringement suits until the work is registered with the Copyright Office.

This registration requirement poses a substantial barrier to the protection of new or pre-release works. Since a huge percentage of revenue from works such as books, movies, music, and software is generated in the first weeks after their release, widespread Internet infringement of new or pre-release works can thus eviscerate the revenue generated. By letting the government bring criminal actions with regard to unregistered work, Section 6(a) will ensure that protection is available to copyrighted works when they are in their most vulnerable state.

While H.R. 2517 makes critical contributions to the enforcement of criminal copyright laws, I believe more can be done. It is for this reason that yesterday Representative Conyers and I introduced H.R. 2752—the “Author, Consumer, and Computer Owner Protection and Security Act.” I believe H.R. 2752 provides an important complement to the provisions of H.R. 2517.

While this hearing is on H.R. 2517, I want to take a moment to describe the most critical portions of H.R. 2752. Section 201 addresses the unique law enforcement challenges posed by the increasingly transnational character of online copyright infringement. Often, law enforcement may devote substantial resources to an investigation, only to find that the online infringer is outside our borders. In order to ensure that the road across the border does not become an investigative dead end, Section 201 requires the Attorney General to assist the appropriate foreign authority in making a case against such online infringers.

Section 301 of H.R. 2752 clarifies that the uploading of a single copyrighted work to a publicly accessible computer network meets the 10 copy, \$2,500 threshold for felonious copyright infringement. Section 301 simply brings the law into accord with the reality that uploading a copyrighted work to a place from which millions can download it is equivalent to the distribution of 10 or more copies having a value of \$2,500 or more. This clarification is necessary because some prosecutors appear skeptical that they can successfully pursue cases against many uploaders of copyrighted works, and in any event are more likely to prosecute felonies than misdemeanors.

Section 302 addresses the well-documented concern that popular peer-to-peer (P2P) software programs sometimes allow 3rd parties to “hijack” PCs to distribute child pornography and copyright-infringing material, come bundled with “spyware,” and otherwise jeopardize the privacy and security of PC owners. To address these problems, Section 302 requires that PC owners receive clear and conspicuous notice, and provide consent, prior to downloading software that would allow third parties to store material on the PC, or use that PC to search for material on other computers.

Section 305 addresses the all-too-common phenomenon of operators of copyright-infringing web sites providing false domain name registration information. If the illegal activities on the web site attract the attention of law enforcement or rights holders, the operators often disconnect it and pop up elsewhere under another domain name with different contact information. Section 305 directs courts to consider the knowing and intentional provision of materially false domain registration information as evidence of willfulness with regard to copyright infringements committed by the domain name registrant.

Mr. Chairman, I look forward to working further with you on this issue, and hope we can find a way to expeditiously move the salutary elements of both H.R. 2517 and H.R. 2752.

I yield back the balance of my time.

Mr. SMITH. I want to thank all seven Members who are present, both for their interest in the subject at hand and also for taking

the time out of a busy schedule to be here today. We always have a good attendance, and today is no exception.

I will introduce the witnesses, and our first witness is Jana Monroe, Assistant Director of the Cyber Division of the Federal Bureau of Investigation. Prior to her current assignment, Ms. Monroe was the Special Agent in Charge with management responsibility for counterterrorism, counterintelligence and white collar crime in the Los Angeles division. Ms. Monroe received a B.S. Degree in criminology from California State University, Long Beach, and a master's degree in public administration from La Verne University.

The next witness is David P. Trust, Chief Executive Officer of Professional Photographers of America. PPA has 14,000 members who represent the entire spectrum of the photography and imaging profession. Mr. Trust joined the staff of PPA in 1998 and has been the Association's CEO since 1999.

Our next witness is Linn Skinner, proprietor of Skinner Sisters. Ms. Skinner, embroiderist and embroidery historian, teaches and exhibits in Europe and the United States. She publishes booklets and designs based on or replicating historic textiles through her commercial enterprise, Skinner Sisters. Skinner Sisters also publishes an online magazine of embroidery history.

Our last witness is Maren Christensen, Senior Vice President and intellectual property counsel for Universal Studios. A growing portion of her practice is devoted to protecting Universal's digital content from worldwide piracy. Before joining Universal, Ms. Christensen was a partner at the law firm of Rosenfeld, Myer & Sussman in California, specializing in intellectual property litigation.

Welcome to you all. We have written statements from all the witnesses as well, which, without objection, will be made a part of their record in their entirety, and we look forward to hearing from each of you all. Just a reminder, we do need to limit testimony to 5 minutes, and Ms. Monroe, we will begin with you.

**STATEMENT OF JANA D. MONROE, ASSISTANT DIRECTOR OF
CYBER DIVISION, FEDERAL BUREAU OF INVESTIGATION**

Ms. MONROE. Good afternoon. I would like to thank Chairman Smith, Ranking Member Berman and Members of the Subcommittee for the opportunity to testify today. We welcome your Subcommittee's leadership in dealing with the serious issues associated with the theft of intellectual property. My testimony today will address the activities of the FBI's Cyber Division in relation to the theft of intellectual property, including music and movies.

A July 11 story in the Chicago Tribune relates only a small segment of a crime on the Internet. The article discusses the thousands of computers that have been hijacked by purveyors of pornographic Web sites. The hijackers use computers with high-speed connections to host their pornographic sites unknown to the people who own the computers. The hijackers could have found those computers through observation of peer-to-peer networks where users can take advantage of high-speed connections to rapidly download copyrighted music and videos. Hijacking someone's computer, though, is just one of the secondary crimes resulting from theft of intellectual property.

Your Subcommittee correctly notes that trafficking in copyrighted works has a great impact in many segments of our economy. When you point out that over 2 billion files are transferred each month, it is easy to see why so few believe there will be consequences for sharing copyrighted files. Few realize that their security and privacy are at risk when they share files. The vast majority of file sharing occurs over peer-to-peer networks.

Peer-to-peer networks primarily serve as a “come and get it” resource on the Internet, and using such a utility, the user specifically searches for the item they want, for example, music, images or software. The most significant criminal activity involving peer-to-peer sharing centers largely on music and software piracy, an area in which the FBI has been working closely with the private industry already.

The FBI has also seen an increase in peer-to-peer sharing for child pornography files. Your Subcommittee’s bill offers the FBI to develop—orders the FBI to develop a deterrence program and facilitate information sharing among law enforcement agencies, Internet service providers and copyright owners of information. We agree that the FBI must work together with the private sector, and we agree that education and deterrence are the first two moves in this war on intellectual property theft.

You will be pleased to hear that the FBI has been working on this problem for quite some time now. The FBI and the Recording Industry Association of America are now in the final stages of completing a memorandum of understanding regarding the FBI intellectual property rights warning program. This MOU allows for the recording industry’s use of the FBI seal, in the same way that it has been used as a warning on videotapes for years.

We have also drafted a document entitled “An Open Letter Regarding Illegal Uses and Vulnerabilities Associated with Peer-to-Peer Networks.” this document will serve as the first step in educating users and the parents of users of peer-to-peer networks.

Theft of intellectual property is only one aspect of cyber crime, and it continues to grow at an alarming rate. Through the efforts of your Subcommittee and our cooperative deterrence and education programs, we hope to stem the tide and strive for a safer and more secure Internet. If we are not successful, the consequences can range from economic damage to espionage.

The FBI is grateful for the efforts of your Subcommittee and others dedicated to the safety and the security of our Nation’s families and businesses.

Again, I thank you for your invitation to speak to you today, and on behalf of the FBI I look forward to working with you on this very important topic.

Mr. SMITH. Thank you, Ms. Monroe.

[The prepared statement of Ms. Monroe follows:]

PREPARED STATEMENT OF JANA D. MONROE

Good morning. I would like to thank Chairman Smith, Ranking Member Berman, and members of the Subcommittee for the opportunity to testify today. We welcome your Subcommittee’s leadership in dealing with the serious issues associated with the theft of intellectual property. Your Subcommittee’s bill, the “Piracy Deterrence and Education Act for 2003,” is a positive step toward making Americans aware of the security, privacy and criminal issues related to trafficking in copyrighted works.

My testimony today will address the activities of the FBI's Cyber Division in relation to the theft of intellectual property, including music and movies.

A July 11th story in the Chicago Tribune relates only a small segment of crime on the Internet. The article discusses the thousands of computers that have been hijacked by purveyors of pornographic web sites. The hijackers use computers with high speed connections to host their pornographic sites, unknown to the people who own the computers. The hijackers could have found those computers through observation of peer to peer networks, where users can take advantage of high speed connections to rapidly download copyrighted music and videos. Hijacking someone's computer though, is just one of the secondary crimes resulting from theft of intellectual property.

Your Subcommittee's bill, the "Piracy Deterrence and Education Act of 2003," is an important bill because it focuses on several aspects of Internet theft. You correctly note that trafficking in copyrighted works has a great impact in many segments of our economy. When you point out that over two billion files are transferred each month, it is easy to see why so few believe there will be consequences for sharing copyrighted files. Few realize that their security and privacy are at risk when they share files. The vast majority of file sharing occurs over peer to peer networks.

P2P SHARING

P2P networks primarily serve as a "come and get it" resource on the Internet. In using such a utility, the user specifically searches for the item they want, e.g. music, images, or software. The most significant criminal activity involving P2P sharing centers largely on intellectual property rights (music and software piracy) matters, an area in which the FBI has been working closely with private industry. The FBI has also seen an increase in P2P sharing of child pornography files.

The FBI has seen an increasing number of instances where a victim has determined that a Trojan/back door was installed on their computer during a download from a P2P network. In some cases, the victim also learned that personal and financial information had also been removed from their computer via the back door.

In addition to traditional Trojans/back doors, the FBI has seen an increase in matters where certain "bots" (active Trojans) have been installed inadvertently via a P2P download. In these instances, the victim computer, via the bot, essentially reports to a designated Internet relay chat (IRC) site, awaiting further instructions from its creator. The creator of the bot will often use the compromised computers to launch coordinated denial of service attacks against a targeted site or sites. These bots could also be used to retrieve sensitive information from victim computers in furtherance of an identity theft scheme.

A person using P2P utilities for unauthorized or illegal purposes is not as likely to tell the FBI that an exploit (back door) was found on their system, or that as a result, certain personal or financial information may have been taken. The FBI has been made aware of instances where Trojans or bots have been found on computer systems where P2P programs are present, and where certain personal, financial or other sensitive information has been taken.

THE "PIRACY DETERRENCE AND EDUCATION ACT OF 2003"

The "Piracy Deterrence and Education Act of 2003" orders the FBI to develop a deterrence program and facilitate information sharing among law enforcement agencies, Internet service providers and copyright owners of information. We agree that the FBI must work together with the private sector, and we agree that education and deterrence are the first two moves in this war on intellectual property theft. We hope you will be pleased to know that the FBI has been working on this problem for quite some time. The FBI and the Recording Industry Association of America are now in the final stages of completing a Memorandum of Understanding regarding the FBI Intellectual Property Rights Warning Program. This MOU allows for the Recording Industry's use of the FBI seal in the same way that it has been used as a warning on videotapes, DVDs and movies for years.

We have also drafted a document titled: "An Open Letter Regarding Illegal Uses and Vulnerabilities Associated with Peer to Peer Networks." This document will serve as the first step in educating users and parents of users of peer to peer networks. We will distribute this document nationwide, and it will be posted on the FBI's website. The letter leaves no doubt as to the illegality of sharing copyrighted works without authorization and distributing child pornography or obscene materiel over the Internet. The letter also addresses the vulnerabilities exposed when using P2P networks.

Investigation of intellectual property rights violations is only a small part of what the Cyber Division is charged with accomplishing. The FBI is in a unique position

to respond to cyber crimes, because it is the only Federal agency that has the statutory authority, expertise, and ability to combine the counterterrorism, counterintelligence, and criminal resources needed to effectively neutralize, mitigate, and disrupt illegal computer-supported operations.

THE FBI'S CYBER DIVISION

The FBI's reorganization of the last two years included the goal of making our cyber investigative resources more effective. In July 2002, the reorganization resulted in the creation of the FBI's Cyber Division. In prioritizing Cyber Crime, the FBI recognizes that all types of on-line crime are on the rise.

The Cyber Division addresses cyber threats in a coordinated manner, allowing the FBI to stay technologically one step ahead of the cyber adversaries threatening the United States. The Cyber Division addresses all violations with a cyber nexus, which often have international facets and national economic implications. The Cyber Division also simultaneously supports FBI priorities across program lines, assisting counterterrorism, counterintelligence, and other criminal investigations when aggressive technological investigative assistance is required. The Cyber Division will ensure that agents with specialized technology skills are focused on cyber related matters.

At the Cyber Division we are taking a two-tracked approach to the problem. One avenue is identified as traditional criminal activity that has migrated to the Internet, such as Internet fraud, on-line identity theft, Internet child pornography, theft of trade secrets, intellectual property rights violations and other similar crimes. The other, non-traditional approach consists of Internet-facilitated activity that did not exist prior to the establishment of computers, networks, and the World Wide Web. This encompasses "cyber terrorism," terrorist threats, foreign intelligence operations, and criminal activity precipitated by illegal computer intrusions into U.S. computer networks, including the disruption of computer supported operations and the theft of sensitive data via the Internet. The FBI assesses the cyber-threat to the U.S. to be rapidly expanding, as the number of actors with the ability to utilize computers for illegal, harmful, and possibly devastating purposes is on the rise.

The mission of the Cyber Division is to: (1) coordinate, supervise and facilitate the FBI's investigation of those federal violations in which the Internet, computer systems, or networks are exploited as the principal instruments or targets of terrorist organizations, foreign government sponsored intelligence operations, or criminal activity and for which the use of such systems is essential to that activity; (2) form and maintain public/private alliances in conjunction with enhanced education and training to maximize counterterrorism, counterintelligence, and law enforcement cyber response capabilities, and (3) place the FBI at the forefront of cyber investigations through awareness and exploitation of emerging technology.

To support this mission we are our cyber training program and international investigative efforts. Consequently, specialized units are now being created at FBI Headquarters to provide training not only to the 60 FBI cyber squads, but also to the other agencies participating in existing or new cyber-related task forces in which the FBI is a participant. This training will largely be provided to investigators in the field. A number of courses will be provided at the FBI Academy at Quantico.

The importance of partnerships like law enforcement cyber task forces and alliances with industry can not be overstated. Those partnerships help develop early awareness of, and a coordinated, proactive response to, the crime problem. The cyber crime problem is constantly changing, requiring law enforcement to develop a flexible and dynamically evolving approach as well. Critical infrastructures and e-commerce are truly on the "front lines" and most often better positioned to identify new trends in cyber crime. Similarly, because of the actual and potential economic impact of cyber criminals, private industry has a vested interest in working with law enforcement to effectively detect, deter and investigate such activity.

The Cyber Division is also embarking on an effort to improve our overseas investigative capabilities by sending FBI personnel to help investigate cyber crimes when invited or allowed by a host country. We believe this high tech training and overseas investigations is the increasing internationalization of on-line crime and terrorist threats.

Through the Internet Fraud Complaint Center (IFCC), established in 1999 in partnership with the National White Collar Crime Center (NW3C), the FBI has appropriately positioned itself at the gateway of incoming intelligence regarding cyber crime matters. The IFCC receives complaints regarding a vast array of cyber crime matters, including: computer intrusions, identity theft, intellectual property rights violations, economic espionage, credit card fraud, child pornography, on-line extortion and a growing list of internationally spawned Internet fraud matters. The IFCC

received 75,000 complaints in 2002, and is now receiving more than 9000 complaints per month. We expect that number to increase significantly as the American and international communities become more aware of our mission and capabilities. Later this year, the IFCC will be renamed as the Internet Crime Complaint Center (IC3) to more accurately reflect its mission.

The FBI and the United States Customs Service (USCS) co-lead the National Intellectual Property Rights Coordination Center (IPR Center). The IPR Center strives to be the FBI and USCS hub for the international collection, analytical support and dissemination of intelligence involving IPR violations. These violations include Theft of Trade Secrets, Copyright Infringement, Trademark Infringement and Signal Theft. Specifically, the IPR Center gathers IPR intelligence from a variety of sources, analyzes the intelligence, and provides a coordinated flow of information for use by the FBI and USCS field components.

Cyber crime continues to grow at an alarming rate, and intellectual property rights violations are a major part of the increase. Criminals are only beginning to explore the potential of crime via peer-to-peer networks while they continue to steal information by hacking, insider exploitation and social engineering. The FBI is grateful for the efforts of your Subcommittee and others dedicated to the safety and security of our Nation's families and businesses. The FBI will continue to work with your Committee and aggressively pursue cyber criminals as we strive to stay one step ahead of them in the cyber crime technology race.

I thank you for your invitation to speak to you today and on behalf of the FBI look forward to working with you on this very important topic.

Mr. SMITH. Mr. Trust.

**STATEMENT OF DAVID P. TRUST, CHIEF EXECUTIVE OFFICER,
PROFESSIONAL PHOTOGRAPHERS OF AMERICA**

Mr. TRUST. Thank you, Mr. Chairman, Ranking Member Berman and Members of the Subcommittee, thank you for this opportunity to testify regarding H.R. 2517, the "Piracy Deterrence and Education Act of 2003." As previously mentioned, I am here representing professional photographers. This country's 130,000 photographers are quite literally the copyright owner next door. They are Middle America. They work on average 49 hours a week. They earn something about \$30,000 a year. They drive carpools, and they cut their own grass. They love making beautiful images, and they try to scratch out a living while they do it. They are the recorders of America's visual history. They make our lives and the lives of our families richer.

Unfortunately, once photo-quality printers and scanners came into widespread use, a photographer's ability to sell images was reduced significantly. Worse yet, they have discovered that even when a photographer catches someone making copies, they have little or no ability to enforce their rights. We believe that H.R. 2517 has the potential to change that by creating a real deterrent to intellectual property theft and by removing unnecessary barriers to prosecution when deterrence fails.

The deterrence elements of this bill are a significant improvement over the status quo. We applaud your vision. Much like the teenager whose friends convince him that shoplifting is a victimless crime, a significant portion of the general public has been trained to believe that stealing is simply sharing when it comes to copyrighted works. The combination of warnings and consumer education, the better coordination of information and the use of visual symbols—like the FBI seal—contained in H.R. 2517 should provide a powerful deterrent that teaches consumers the truth about intellectual property theft.

However, we point out that all of the deterrence efforts in the world will fail unless they are backed up by strong enforcement. This makes sections 4 and 6 the most vital elements of this bill for professional photographers. There is no question that someone who intentionally makes unauthorized copies of a photographer's work is guilty of stealing, period. However, photographers are often shocked to discover that, unlike the clothing retailer next door to their studio, they have little resource through law enforcement when someone steals from them.

Attaching intellectual property investigators to CHIPS units will ensure that claims of criminal infringement are given their proper weight. In addition to giving copyright owners some real protection, this move will also serve to deter infringers by making sure that intellectual property theft in whatever form it takes is handled seriously and pursued when appropriate.

For photographers, the greatest value of H.R. 2517 is the elimination of the registration requirement for criminal prosecutions. We cannot emphasize enough the importance of this change, which is absolutely vital for granting all copyright owners the full protection of the law. As it stands, 93 percent of all professional photographers have never registered anything with the Copyright Office. That is not because photographers don't want protection; it is simply a function of the photographic business. Unlike most creators who might produce a handful of works each year, a professional photographer can easily create 20,000 images in a single year. The burden of completing the registration forms and compiling and depositing copies of that many images and events is an unintentional Mount Everest of procedure that bars almost all photographers from participating in the copyright system.

Now, while the talented and professional staff of the United States Copyright Office has taken steps to help simplify the process, there is a limit to what can be done through regulatory change. It is for this reason that we wholeheartedly support amending title XVII, section 411(a), to permit the Government to bring criminal infringement action without the work being registered. Without this change, the other provision of the bill become much less useful for photographers.

In short, electronic piracy—no, electronic theft has brought us to a point reminiscent of the computer hackers of the 1980's. Originally hackers were viewed as more of an annoyance than anything else. However, as time progressed, the American people and Congress realized the economic harm caused by hackers and passed laws to deter and punish such conduct. We firmly believe that the time has come to do the same in regard to intellectual property theft. Let me repeat that: intellectual property theft. It would be no less damaging to photographers if the criminals were wearing masks and carrying bags of money out of their photography studios. It is with that in mind that we strongly urge this Subcommittee to move this legislation forward as quickly as possible.

Mr. Chairman, Ranking Member Berman, we thank you again for the opportunity to tell you our side of the story. Photographers, the small copyright holders of the world, cannot fight this battle on their own. We need your help.

Thank you very much.

Mr. SMITH. And thank you, Mr. Trust
[The prepared statement of Mr. Trust follows:]

PREPARED STATEMENT OF DAVID P. TRUST

Mr. Chairman, Ranking Member Berman and members of the Subcommittee, I appreciate the opportunity to testify before you on the important issues raised by the "Piracy Deterrence and Education Act of 2003" (H.R. 2517).

As the Chief Executive Officer of Professional Photographers of America, I am honored to be here speaking on behalf of our 14,000 members. PPA is the oldest and largest trade association for professional photographers; our members are engaged in all facets of photography and imaging including wedding, portrait, advertising and commercial specialties. I have also been authorized to speak on behalf of two other photography organizations, the International Association of Professional Event Photographers and the Student Photographic Society.

Photographers are the copyright owners that do not make the headlines every day. They are not glamorous individuals who get large corporate endorsements. No one cares which cola they drink or what brand of shoes they wear. Instead, photographers are the creators who help capture the memories of children and families by telling their story through images. They are the ones who help business owners and the media sell their products and tell their stories. In short, photographers are the creators and the caretakers of America's visual history.

As such, photographers are an integral part of communities throughout the United States. They are literally, the "copyright owner next door." Most photographers are small business owners simply trying to earn a living. Some 69% of our members are sole proprietors. They work an average of 45 hours a week and earn less than \$35,000 a year. Each year, these small business owners create thousands of copyrighted works and rely on the sale of copies of those works for their livelihood.

And every year, thousands of those works are knowingly and willfully copied for commercial advantage or gain. Since photo-quality color copying equipment and scanners became widely available in the mid-90s, our members have faced declining reprint sales which have led to a reduction in their ability to earn a living and support their families.

As small business owners, photographers have made adjustments to accommodate the reality that their work can be stolen with impunity. This has led to higher prices for paying consumers to make up for the lost revenue. As an example many portrait and wedding photographers have been forced to go to a "minimum order" pricing strategy, knowing that their ability to protect their work once it leaves the studio is nil.

Every day, our members contact us for help with copyright infringement issues. Based on those experiences, PPA and its photographers have come to several conclusions regarding the problems we face as copyright owners.

First, technology is a neutral element. While it makes stealing far easier than ever before, it is not the root of the problem. To borrow a phrase: Technology doesn't steal intellectual property. People do.

Second, different infringers can be dealt with in different ways. Individuals whose infringements are truly innocent, as well as those involved in genuine disputes regarding the interpretation of licensing agreements, can be dissuaded from committing future infringements by education and direct negotiation. The other category of infringer is the willful and knowing thief. This category includes both individuals and commercial enterprises who know the work is copyrighted, but deem the risks of prosecution or civil liability to be so small as to be immaterial. Unfortunately, their assumption is usually correct.

If an infringer has access to competent legal advice, then they know that the costs of pursuing a copyright claim are beyond the reach of almost all photographers, giving the infringer a de facto license to steal. This is compounded by copyright registration requirements that make it nearly impossible for photographers to obtain statutory damages or attorney's fees.

While the possibility of a civil lawsuit is so remote as to be almost laughable, the thought of a criminal prosecution is so unheard of that it probably never even crosses the willful infringer's mind.

So we now find ourselves at a point not entirely dissimilar to what our nation and Congress went through with computer hackers in the 1980s. Originally, computer hackers were viewed as more of annoyance than anything else. However, as time progressed and technology became better understood, the American people and Congress realized the economic harm caused by hackers and passed laws to deter their conduct, and when deterrence failed—to punish their wrongdoing. We firmly

believe that the time has come to do the same in regard to intellectual property theft.

We now move to our comments on sections three to six of H.R. 2517 the Piracy Deterrence and Education Act.

SECTION 3: DETERRENCE AND COORDINATION

It has been the experience of Professional Photographers of America that education and deterrence are successful in stopping the vast majority casual copyright infringements. Much like any other law, ordinary citizens generally have no qualms about violating copyright law until they are educated regarding the potential penalties. Once this education takes place, it serves as a strong deterrent to future infringements.

Part of ensuring a proper deterrent to intellectual property theft is the ability to uncover illicit copying and distribution when it takes place. In the past a great number of infringement reports we received at PPA came in the form of a photographer being in a local store and seeing a store employee helping a client make the copies. However, as electronic means of distribution and copying become more prevalent, intellectual property theft is becoming ever more difficult for copyright owners to discover and address.

The facilitation of information sharing between the government, Internet service providers and copyright owners is absolutely vital to the enforcement of copyright law. Without this feature, infringements will become almost undetectable, once again rendering copyright enforcement meaningless.

SECTION 4: DESIGNATION AND TRAINING OF AGENTS IN COMPUTER HACKING AND INTELLECTUAL PROPERTY UNITS

There is no question in a photographer's mind that someone who makes unauthorized copies has stolen from them. However, they are often shocked to discover that unlike other business owners, they have little recourse through law enforcement when their property is taken. Obviously, local law enforcement has no jurisdiction over the matter. In those cases where a photographer contacts the Federal Bureau of Investigation, they are almost always turned aside there as well.

Professional Photographers of America favors the attachment of intellectual property investigators to CHIPS units to ensure that claims of potential criminal infringement are given their proper weight. With the vast array of skills already required of federal agents, we believe the addition of a team member well-versed in intellectual property theft would be an invaluable asset. By providing such officers as resources, intellectual property owners can be sure that intellectual property theft—in whatever form it takes—will be handled seriously and pursued when appropriate.

SECTION 5: EDUCATION PROGRAM

As mentioned in our comments on section 3, Professional Photographers of America and its members believe strongly in the power of education and deterrence. We believe that the Internet Use Education Program would serve the interests of copyright owners and consumers alike.

Much like the teen shoplifter whose friends convince him or her that shoplifting is a victimless crime that harms no one, portions of the general public have been convinced that stealing is simply sharing when it comes to copyrighted works.

While the efforts of individual copyright owners and trade associations can go a long way toward eliminating this false perception, the Internet Use Education Program would have far greater effect through its superior reach and access to students, corporations and members of the general public.

SECTION 6: CUSTOMS RECORDATION

It has long been our contention that sections 411 and 412 of the U.S. Copyright Act violate the letter, if not the spirit, of our nation's obligations under the Berne Convention by placing a "formality" requirement on the civil and criminal enforcement of copyright law. These requirements are particularly onerous when one realizes that foreign authors are exempt from this registration requirement—giving them greater access our court system than our own citizens who own copyrights.

The registration requirement also places an unfair burden on professional photographers. Unlike most other creators who might produce a handful of works that need to be registered each year, a professional wedding photographer can easily create about 800 new works each weekend. A conservative estimate of a professional photographer's annual creative output is somewhere in the 20,000 plus range. The

burden of completing registration forms and sending copies of these images to the U.S. Copyright Office for deposit has created an impossible barrier to the full participation and protection of photographers in the U.S. Copyright system.

In fact, our research has shown that 93% of professional photographers have never registered a single image with the U.S. Copyright Office—and that less than 1% regularly register more than half of their work.

In looking for ways to eliminate this barrier we have worked with the very talented and professional staff at the U.S. Copyright Office. The Copyright Office has been very sympathetic to the logistical impossibility that the current registration regime presents to professional photographers, and has implemented regulations that reduce those burdens. However, there is a limit to what can be accomplished through regulation.

As mentioned previously, PPA contends the requirement that a work be registered in order to bring a civil suit or to obtain statutory damages and attorney's fee in a civil suit should be eliminated. However, since civil litigation is outside the scope of H.R. 2517 we leave that issue for another day. In the meantime, PPA fully supports the amendment of Title 17, section 411(a) which permits the government to bring a criminal infringement action without the work being officially registered with the U.S. Copyright Office. Likewise, the clarifications of Sections 602(a) and 603(a) will remove unnecessary procedural barriers to enforcement of the law.

SECTION 7: INFRINGEMENT WARNING NOTICE

As part of PPA's commitment to deterrence and education, we believe that granting creators the right to use the FBI seal on their works will go a long way toward placing the seriousness of intellectual property theft in the minds of the American public. An excellent example of this is the FBI warning placed on videos. While we doubt that very many consumers could quote you the content of that warning, recognition of the warning and its implications are almost universal. We have little doubt that consumers are aware that unauthorized reproduction of videotapes is a federal crime.

Our only comment on making the FBI seal available copyright owners is to make certain that the criteria created by the Attorney General may be met by individual creators who are the most vulnerable to infringement and have the greatest need for such deterrence tools.

CONCLUSION

Over the last several years, our existing laws have proven to be an ineffective deterrent to the widespread, wholesale infringement of copyrighted works. While civil remedies are technically available, the cost of obtaining such remedies is so high as to prevent their use by the vast majority of independent creators. Likewise, the mechanisms for dealing with criminal infringements appear to have been overtaken by time and technology.

The Professional Photographers of America believes that if passed and implemented, H.R. 2517 may provide an adequate deterrent to all but the most determined copyright infringers. For those who willfully refuse to obey the law and continue to steal from others, H.R. 2517 removes unnecessary procedural barriers to prosecution.

Mr. Chairman and Mr. Ranking Member, we thank you for the opportunity to bring the problems of independent copyright owners to your attention and for your efforts in developing legislation that will finally give the owners of intellectual property adequate protection from theft.

Professional Photographers of America strongly urges the Subcommittee to move this legislation forward.

Thank you.

Mr. SMITH. Ms. Skinner.

STATEMENT OF LINN R. SKINNER, PROPRIETOR, SKINNER SISTERS

Ms. SKINNER. Thank you. I am an embroidery historian specializing in the study of embroidery and social history of 16th and 17th century Western Europe. I teach classical embroidery techniques and design embroidery for execution for others. I market my copyright designs to individual consumers, to needlework shops and to needlework distributors in the U.S. and internationally. My work

has been published in magazines. My fiberart has been exhibited in London and I have appeared on BBC radio on the issues of needlework aesthetics.

In the summer of 2000 I became entangled in an absolute morass of copyright infringement of needlework designs on Internet sites. At that time, a concerned consumer contacted a designer to make the designer aware of a photo site where scans of commercially published needlework charts were being uploaded and distributed to all who cared to download them. An enthusiastic participant in these infringing activities, a Carla Conry of Palmdale, California, created a series of e-groups hosted by e-groups.com. She later in May of 2002 consolidated these groups into an omnibus pattern uploading group named "Pattern Piggies Unite" because of their avowed greed for infringed needlework charts.

This group and those following in its wake transmit designs primarily as scanned e-mail attachments sent as messages to a host group. By July 2002 this group had already posted 12,364 messages, most having infringed material as attachments, and other groups have begun to form as the infringing community hustled to have the largest, the best and the most "sharing" of groups.

Mr. SMITH. Go ahead and continue. We are going to wait about 5 minutes before we take a recess.

Ms. SKINNER. E-group services for affinity groups are a boom to many honest hobbyists. They can be found on Yahoo, MSN, Topica, AOL and other sites. However, they are a haven for infringers. Infringers often post messages on groups requesting specific patterns, and they are soon uploaded to not only one group but multiple groups, increasing the loss immensely.

Infringers were soon storing needlework designs on photo sites, e-groups, Web sites and even family history groups. Some infringers simply list their entire pattern collection that is available upon request. Charts are then sent as e-mail attachments to requesting fellow infringers. Some infringers offer lists of designs they will e-mail upon request or provide on a CD by mail. Some infringers sell the copies of infringed material.

At first the affinity groups were public and open and designers joined the groups demanding that they remove infringed material. These designers were deemed by infringers to be "Trolls." trolls were seen as the enemy, and list owners constantly tried to make their groups safe from these disturbing copyright fanatics.

Although groups were being occasionally closed, mostly through annoyance, they simply morphed into a new group and continued on their merry way. The new group was normally closed to general membership and required approval to join. Even if a hosting site occasionally closed a group, the average time for getting back on line with a previous membership was approximately 4 hours.

I, and other consumers and designers, believed that we needed to make the effort to maintain membership in these clandestine groups and began joining them using an alias. Several of us created an alias and joined several groups. As time went on, groups were added and I was soon a member of 60-plus infringing groups, using several languages, and located on several host services.

Most infringing groups soon began requiring infringing activity of prospective members. I was required to create a PhotoPoint and

Picture Trail site, and some designers allowed the use of a design for uploading so that I could remain a member of infringing groups. I was required to create a photo site to bolster my credibility with these groups. Running some of my vacation snapshots through a stitch design program and uploading the resultant charts and a few crochet patterns from an 1886 publication kept them at bay until I revealed myself to these groups.

In the summer of 2001, a group of needlecrafters, mostly crocheters and knitters, joined in the battle. I felt we needed more than anecdotal evidence of the infringement problem and asked for volunteers to completely survey one public group. Ten volunteers from the United Kingdom, the U.S., Australia, Canada and Israel looked at 35,000-plus messages posted to the group and identified 49,500-plus pages of infringing material.

The group identified insofar as possible the owner of each of these uploaded pages and provided the information to the rightsholders so they could ask for removal under the act. The contents of that survey can be found on my Web site.

Mr. SMITH. Ms. Skinner, I would like to hear from Ms. Christensen before we go vote. Are you to the end of your testimony?

Ms. SKINNER. Just one last bit. And that is, I would like to say that I am very much encouraged by the provisions of H.R. 2517, especially sections 3, 4 and 7, and the educational component and support its enactment. Stronger criminal enforcement of the copyright laws is absolutely necessary, particularly to protect individual creators such as needlework designers. We simply can't afford to undertake civil litigation. The rampant infringement and unrepentant nature of the infringers makes criminal enforcement the only credible deterrent.

Mr. SMITH. Thank you, Ms. Skinner. I am glad we made time for you to say that about the bill. I appreciate those comments.

[The prepared statement of Ms. Skinner follows:]

PREPARED STATEMENT OF LINN R. SKINNER

INTRODUCTION

I am an embroidery historian specializing in the study of embroidery and social history of 16th and 17th century embroidery of Western Europe. I teach classic embroidery techniques and design embroidery for execution by others. I market my designs to individual consumers, to needlework shops and to needlework distributors in the US and internationally. My work has been published in *Piecework Magazine*, amongst other periodicals. My fiberart has been exhibited in London and I have appeared on BBC Radio on the issue of needlework aesthetics.

I have been an active member of the internet community for many years. My online experience began as volunteer staff on one of the first fiberarts discussion groups—Fibercrafts Forum on CompuServe. These were early days of online groups. We were using DOSCim at first and finally began using Windows platform in this content group. We've come a long way since then but some of the journey has been most unpleasant.

The pleasant bits have been the presence the internet has provided to cottage industry designers in the leisure arts industry. We can participate in affinity groups, exchange ideas and graphic images with our designer colleagues, provide educational materials to our consumers and sell our products from a website.

A LITTLE HISTORY OF NEEDLEWORK PATTERNS

The first needlework instructions are found in the Bible. The first needlework pattern book was published in 1523 by an Augsburg Germany printer named Schonsperger. By 1527, a printer based in Cologne (Peter Quentell) had copied sev-

eral of the designs of Schonsperger and this practice of copying continued for many years as the concept of intellectual property was still far over the horizon.

The next great golden age of needlework pattern publishing came with the development of 19th century “ladies magazines.” They were published in many languages and contained instructions and graphs for needlework along with other material deemed proper for Victorian age ladies. Publishing of needlework patterns progressed technically as did all graphic arts printing. Photolithography was a big step and the computer as a compositor took us into a new age. Today desktop publishing capabilities make it possible for individual designers to create charts, stitch diagrams; to insert these designs into publication and to print the final product right in their own home office.

INFRINGEMENT OF NEEDLEWORK DESIGNS

Copying of needlework designs was at first discouraged by the sheer effort involved. It was much easier to simply purchase a design rather than go to the trouble of copying it by hand. Technology made copying and photocopied needlework charts easier to pass around to friends and relatives. The needlework industry tried to cope with these infringements by producing colored charts as color copies were not then generally available and when available fairly expensive.

Although new technology (personal computers, scanners, CD burners, etc.) was a boon to designers, it also opened a floodgate for infringement of needlework designs. Now an infringer did not have to leave the comfort of their own home. They could scan and print a colored needlework chart for pennies.

With the advent of easy web access, the needlework infringers gained a new platform. Photo Sites and e-groups mushroomed. All of these venues offered free storage for graphic images and access to large numbers of downloaders of those images.

A FEW TERMS

Anonymous FTP

Anonymous File Transfer Protocol (FTP) permits downloads of files by users who don't have to enter a password to access files stored on a website.

Download

Transferring a file or other information from one computer to another

Posting

Sending a message to a newsgroup or other online system for communications from one computer to another.

Share

To scan and upload copyrighted material for redistribution via electronic and online sources for other participants without charge. Lastly, we share patterns because many patterns are out of print. Most are unavailable elsewhere. We do not post them to the Internet websites for everyone who wants a copy. We post them for our friends in private groups so that our sharing can continue from the friends we know to the needy we may never know. Occasionally, a pattern that is still available may go through. Nothing in this world is perfect.

R.C.T.N

Rec Crafts Textiles Needlework A Usenet group for the discussion of needlework topics in an open, public forum

USENET

A global network of discussion groups, with messages posted from one machine visible to other computer users via a central holding system.

Thread

An ongoing discussion in a Usenet newsgroup that contains a main message and subsequent replies generally arranged in chronological order.

Troll

A Usenet expression describing a person who joins a group for the specific purpose of posting messages in an inflammatory style to cause maximum disruption of the group. The term was co-opted by the “Pattern Piggies” to describe anyone who wants copyright infringements stopped

THE DARK SIDE OF THE INTERNET AS IT AFFECTS NEEDLEWORK DESIGNERS

In the Summer of 2000, I became entangled in the morass of copyright infringement of needlework designs on internet sites. At that time a concerned consumer contacted a designer to make the designer aware of a photo site (freecharts) where scans of commercially published needlework charts were being uploaded and distributed to any and all who cared to download them.

An enthusiastic participant in these infringing activities, Carla Conry of Palmdale, California created a series of e-groups hosted by egroups.com. She later (May 2002) consolidated these groups into an omnibus pattern uploading group named "Pattern Piggies Unite"¹ because of their avowed greed for infringed needlework charts.² This group, and those following in its wake, transmit designs primarily as scanned e-mail attachments sent as messages to the host group.³ By July 2002, this group had already posted 12,364 messages (most having infringed material as attachments) and other groups had begun to form as the infringing community hustled to have the largest, best and most "sharing" of groups.

E-group services for affinity groups are a boon to many honest hobbyists. They can be found on Yahoo, MSN, Topica, AOL and other sites. However, they are a haven for infringers.⁴ Infringers often post messages on groups requesting specific patterns and they are soon uploaded to not only one group but multiple groups increasing the loss immensely. Infringers were soon storing needlework designs on photo sites, e-groups, websites, and even family history groups.

Some infringers simply list their entire pattern collection that is available upon request. Charts are sent as e-mail attachments to requesting fellow infringers. Some infringers such as ATiggerhouse@aol.com offer lists of designs they will e-mail upon request or provide on a CD by mail.^{5,6} Some infringers sell the CD's of infringed material.⁷

FAIR USE

I am a firm believer in fair use. I provide free charts to guild groups and allow them to copy them freely and distribute them to their members. I upload small free designs to my website. I don't object when sellers scan the covers of my designs when selling the originals on e-Bay. However, uploading an entire usable product for free distribution is not fair use. If a consumer could attach a Ford pickup or a load of I-bar or a washing machine to an e-mail and give them away to 1,000 of their closest online friends, I think the idea of an entire product being sent as an attachment would quickly be discovered to not be fair use.

REACTION OF THE NEEDLEWORK INDUSTRY

At first the affinity e-groups were public and open and designers joined the groups demanding that they remove infringed material. These designers were deemed by infringers to be "Trolls."⁸ "Trolls" were seen as "the enemy" and list owners constantly tried to make their groups "safe" from these disturbing copyright fanatics.⁹

MY SCHIZOPHRENIC LIFE AS A DESIGNER BY DAY AND INFILTRATOR BY NIGHT

Although groups were occasionally being closed (mostly through annoyance), they simply "morphed" into a new group and continued on their merry way. The new group was normally closed to general membership and required approval to join. Even if a hosting site occasionally closed an entire group, the average time for getting back online with the previous membership was approximately four hours.

I, and other designers and consumers, believed that we needed to make the effort to maintain membership in these clandestine groups and began joining them using an alias. Yahoo staff encouraged this sort of monitoring of groups by designers. Several of us created alias personae and joined several groups. As time went on, groups were added and I soon was a member of 60+ infringing groups using several languages and located on several host services.

INFRINGING TO GAIN ACCESS

Most infringing groups soon began requiring infringing activity of prospective members.¹⁰ Designers who joined groups under an alias determined that they would forfeit membership rather than infringe themselves. I created a PhotoPoint and a Picture Trail site and some designers allowed use of a design for uploading so that I could remain a member of infringing groups.¹¹ I was required to create a photo site to bolster my credibility with infringing groups. Running some of my vacation snapshots through a stitch design program and uploading the resultant charts and a few crochet patterns from an 1886 publication kept them at bay until I revealed myself to the groups. At that time, one of the list owners was still certain I had

uploaded infringed material—not my own photographs turned into incredibly vile cross stitch charts and patterns in the public domain.¹²

NON-US SITES

Non-US sites are particularly difficult to deal with. A group of Russian sites was identified in May 2002.¹³ Chinese language sites pop-up often and are brought to my attention although I have absolutely no useful suggestions for designers.¹⁴ The French are active needleworkers and have had sites for infringing from time to time.¹⁵

EDUCATION OF NEEDLEWORK INDUSTRY

I have found many members of our industry have “fuzzy” sorts of ideas about intellectual property issues, particularly as relating to the internet. I have consistently encouraged them in e-groups for designers to take responsibility for learning about the DMCA and enforcing their rights under the act.¹⁶ Our largest publisher is Leisure Arts (Southern Living) a Time Warner/AOL company. They came late to the battle and have never funded staffing or other resources to combat infringement of needlework designs in a meaningful way.¹⁷

In August 2000, I felt the issue required a public airing and contacted the Los Angeles Times’ leading reporter on Napster issues. I offered my alias so she and her staff could research the issue and an article followed. Designers were interviewed, opinions of intellectual property attorneys sought, and a committee on internet piracy formed by one of our trade associations. A project was completed of a book of designs contributed by international designers to raise money for dealing with the issues of internet infringement of needlework designs. Unfortunately there was no mandate given to the committee as to use of the funds and other than a poster on the issue of copyright printed for distribution to retail shops, there has been no action by needlework industry trade groups.

In the Summer of 2001, I was ready to throw in the towel when a group of needlecrafters, mostly crocheters and knitters, joined in the battle and asked what they could do. I felt that we needed more than anecdotal evidence of the infringement problem and asked for volunteers to completely survey one public Yahoo group that had been active for nearly a year, had not been called to task by designers and had a representative membership for the groups of that time. Ten volunteers from the UK, the US, Australia, Canada and Israel looked at 35,000+ messages posted to the group and identified 49,500+ pages of infringed material.

The group identified insofar as possible the owner of each of these uploaded pages and compiled a list of the designers/publishers furnishing them with thousands of URL’s so the owners of the intellectual property identified could file a complaint under the provisions of the DMCA. A CD was created with the results of the survey and educational materials for designers concerning internet piracy of designs. (The contents of the CD can be found at www.skinnersisters.com/copyright) Copies of the CD were provided to members of the needlework industry at a trade show in July 2001.

Again, there was no meaningful response to the problem and groups and websites continued to proliferate. I continued to attempt to notify rights holders of infringements. Some designers saw me as a “copyright scold” not a helpful ally.¹⁸ Discouragement with fellow designers was taking over my love of my art.¹⁹ At this time only a few designers and stitchers were monitoring groups and then our watchgroup dwindled to virtually three people—Su Poole, an American designer residing in the UK, Barbara Horton, a concerned stitcher and myself.

CIVIL LITIGATION

One federal civil action has been filed concerning uploading of infringed needlework patterns to a photo-site.²⁰ This has not deterred pirating whatsoever.

BEGGING FOR ATTENTION FROM ALL THE WRONG PLACES

By May 2002, I was a member of a large number of infringing groups.²¹ I was discouraged and tried battering at any door no matter how unlikely any attention would be paid to the issues facing designers. These contacts included the Library of Congress²² and the FBI.²³ The Library of Congress did at least respond saying “not our job” but I have to date not received a response from the FBI.

GIVING UP THE CHASE

By 2002, I was convinced watching the groups and trying to encourage designers and publishers to act was futile and Barbara Horton, Su Poole and I unsubscribed

from a number of infringing groups after sending them a swan song “gotcha” message.²⁴ The pirates remained unrepentant.²⁵

When I stopped following the groups, I offered my identity and archives to those I felt might have resources available to make use of these tools, but there was no interest evidenced.²⁶

IS THERE A SOLUTION?

I am not silly enough to believe that all infringement of needlework designs is within reach nor do I believe putting a halt to all internet piracy of needlework designs is an achievable goal. Widespread infringement is too well entrenched. I do believe that criminal enforcement of well written legislation can deter infringers and help contain piracy to a great extent. I am most hopeful that providing the criminal justice system with resources by way of staff and expanding their knowledge of the issues of intellectual property, a decrease in piracy online will be achieved and that they can take on this task that is far beyond any industry or individual. Cease and desist letters from rights holders are simply ignored by infringers²⁷ and civil litigation is far beyond the means of 98% of needlework designers.

I am encouraged by the enforcement provisions of H.R. 2517, as contained in Sections 3, 4 and 7, and the Educational component, contained in Section 5, and support its enactment.

END NOTES

1. From: Carla Conry (carlaconry@earthlink.net)
Newsgroups: rec.crafts.textiles.needlework
Date: 2000-09-05 18:12:00 PST

“....I named the group that as it started as a joke. But then it stuck to us like glue. Actually we even have an angel piggy mascot.I don't get insulted Carla”

2. Owner's description of PatternPiggies Unite
PatternPiggiesUnite
Founded May 11, 2000

“Welcome, Come On in and Join the Fun. If you like all types of patterns You will find them here. Browse the Archives (Messages) And there you can get caught up to date.

The first thing is to have Fun....

The second thing is there will be NO TALK OF COPYRIGHT we are a share group we are not selling anything.

1. When Posting a Pattern Please Put the type of Craft it is.
2. Please Keep track of the List I send out to make sure the Pattern has not gone through Before
3. Please do not take a Pattern from here and send to another List. If it is an Original from Original sender that is ok. (Reason for this is We have alot of members and More and Likely they are on other List with you)
4. Please keep email as low in KB as Possible we have to be User Friendly to all members in order not to Clog Email Boxes
5. Please remove all Stationary when sending A pattern.
6. If you do not like 6.Just have Fun And Do alot Of Oinking”

Welcome Message from Carla Conry:
PatternPiggiesUnite
Messages: View by Date: Message 1 of 12387
Message 1 of 12387

From: Carla Conry <carlaconry@e...>
Date: Thu May 11, 2000 8:04pm
Subject: Welcome

“I see that we are off to a great start. I just wanted to say Thank You to all that joined. There are a few Rules to go by.

1. HAVE FUN
2. Have More Fun

But on a Serious note. I will not hear talk about Copyright Infringements Because there are None. If you are here to cause trouble Please Leave now. We are all here to have Fun and Enjoy Ourselves. We are Not here to Hurt anyone. Everyone has A vote. This not just My List this is Yours. If You feel that you have a dispute or have been hurt in some way Please Address the Problem to me and only Me. We are all Ladies here and we will conduct ourselves in this Fashion. I am bringing all of my List together so that I am not running from email to email. And also Because I enjoy the company of all of you. So sit back Relax Post if you want to Post If not Just Enjoy. We are all here to Have Fun. Also if You fell the mail is overwhelming the Patterns will be Posted at this site Download at your own Pace. Carla “

3. Messages from currently active infringing group:
<http://groups.yahoo.com/group/plasticcanvaspatterntraders>

1088 From: catradr2 <CatraDR2@e...>
 Date: Fri Jul 11, 2003 5:34pm
 Subject: Re: looking for this pattern

----- Original Message -----

From: Rita Pruitt
 To: ILuvPlasticCanvas@yahoogroups.com ; PlasticCanvasFriends@yahoogroups.com ;
 Plasticcanvaspatterntraders@yahoogroups.com
 Sent: Friday, July 11, 2003 5:41 PM
 Subject: [plasticcanvaspatterntraders] looking for this pattern

this picture was on here but i never found the pattern if the person that had it could you resend me the pattern my email is ritagay2001@yahoo.com thanks Rita

Attachment 316k (image/jpeg) Photo Frame Friends 6.jpg

Attachment 307k (image/jpeg) Photo Frame Friends 7.jpg

1089 From: catradr2 <CatraDR2@e...>
 Date: Fri Jul 11, 2003 5:35pm
 Subject: Re: looking for this pattern

Here are the Frame patterns you were wanting.

Lee Ann

Attachment 289k (image/jpeg) Photo Frame Friends 8.jpg

1090 From: catradr2 <CatraDR2@e...>
Date: Fri Jul 11, 2003 6:08pm
Subject: Re: looking for this pattern

Attachment 352k (image/jpeg) Photo Frame Friends 1.jpg

1091 From: catradr2 <CatraDR2@e...>
Date: Fri Jul 11, 2003 6:08pm
Subject: Re: looking for this pattern

Attachment 582k (image/jpeg) Photo Frame Friends FC.jpg

1092 From: rita <ritagay2001@y...>
Date: Fri Jul 11, 2003 8:28pm
Subject: just saying thanks

just saying thanks to everyone who has sent me patterns Rita"

4. From: "skannersisters" <skannersisters@mindspring.com>
Date: Mon Jan 28, 2002 7:42 am
Subject: Some Thoughts

Regarding approaching MSN and Yahoo directly. Several publishers and designers have done just that. Su and I and other volunteers have consistently approached MSN, Photo Club, Photo Point, Yahoo and other service providers with evidence of mis-use of their services to upload IP.

Photo Club and Photo Point were the most willing to act beyond the provisions of the Digital Millinium Act. Anyone who hasn't read the Act needs to read it carefully or you will misunderstand where the providers are coming from in their actions.

Yahoo and MSN have and will continue to act within the strict parameters of the Act. They will take down pages of material upon complete compliance with the provisions of the act by the holder of the rights. By our pounding and pounding on Yahoo for some 2 years now, they have put the brakes on groups by limiting their archive space, size of files and amount of upload/download bandwidth. This has discouraged groups significantly and decreased their archives of IP.

As to enthusiasm - everyone of us when we entered the fray thought we could accomplish a great deal in a very short time. We are all creative people with eternal optimism. It just ain't so folks. We've all had to chip away at the edges, document the phenomena and wait for the ideal candidate to make an example of one or more infringing felons. It will happen in time and I believe the courageous designer/publisher will appreciate our assistance.

As to my role call of folks taking action, not taking action. Those are individual business choices of

different publishers/designers. I'm not standing in their shoes. They make those choices in accord with their own business plans. I cannot force them to take the action I would take nor should they knee jerk take any action without a thorough assessment of their own needs.

I'm here for the duration along with a few others. Other interested folks will come and go. We will get encouraging action from time to time from those affected. The longterm influence of this difficult practice on our industry remains to be seen and probably can't be evaluated in isolation. There are too many other variables in the marketplace at the moment.

Linn

5. "hi

here is my list i hope you like some thing!

amanda "

Disk A:

ASN: Animal Kingdom, Fant Animals, Noah's ark collection, Puppy love.

Angels: Christmas stocking Angel, angel of friends, angel of animals, angel of cross stitch, angel of summer, angels do no more, angel of autumn, buccilla's angel, guardian angel dimension's holiday spirits angel, I believe, queen iris, winter angel.

Animals: animal border, bears bears bears, Aida plus, jack Russell, kitten with birds eternity wolf, forest morning, koala, leopard, nocturne, northern lights wolves, Orcas, panda, nesy Lynn's pandas, proud lady, rest hawk, Siberian king, smoke Persian, spring oasis, squirrel, strawberry basket kittens, tiger, tiger head, tranquillity, wolves, wolf head

Barbara Baatz: angel of fantasy, angel of harvest, angel of peace, angel of romance, Celtic angel, native American angel, south American angel, beautiful blossoms, magnificent iris, rose beauty, striped parrot tulip, birthday fairy's 12 months, bride, elegant bride, first dance, rose and lace, Victorian garden honour, 5 fabulous flowers, Japanese angel, angel of the south west, angel of the garden, candy land angel, celestial angel, guardian angel, woodland angel, Christmas fairie, dream fairie, fairie godmother, flower fairie, forest fairie, springtime,

Barbara Borgeau: gathered with love, summer quilt, friendly enemies (LA), Harmony (SC),

Birds: eagle, finches, gold finches, kooka burra's, memories of spring, oriole, chickadee, parrot, snowy owl, summer sweet by weekenders, swans,

Bobby G. Designs: Basket of joy, I live for laundry, new baby sampler,

Bucilla: old mc Noah

Butternut Road: see other list.

Cecilia Votta: (Jeanette Crews), anemone, autumn, poinsettia, narcissus, woman in flower, rose canina.

Christmas: nutcracker, this year's tree, pageant kings (magazines)

Colour Charts Designs: day for Susan, butterfly sampler, la danse la ville, porthole to paradise, cross eyed cricket collection, snow.

Cross my Heart: artic ark, tiny little tea pots, tiny little tea cups, dog squares, endangered species 2, English country, morning harvest, the rain forest, timeless tapestry.

Cross stitch Gold Issue: bedtime bears, cheetah, garden treasures, iris cushions, jam pot covers, July 4th carousel, my favourite thing, oriental lady, owls at dusk, pansy collections, Santa's stocking, Sioux Indian, sunshine cushion, wedding carousel.

Crossed Wing Collection: Loon Lake.

Diane Graebner: flying high, for you mother, lots of pumpkins.

Dimensions: back yard swing, believe, 3 grey wolves, blessed nativity, sweet inspirations, treasured thoughts, whiskers and wings.

EMS: animal babies, the bird collector, summer beauties.

Fairies: candle baby fairy, dark fairy1&2, fairy moon, ice baby fairy, tulip fairy, winter fairy.

Floral: bouquet of roses (Cindy Rice), butterfly and roses, butterfly circle chart, calla lily, cottage garden flowers, day lily debut, flower gate, flowers of the woodland, four seasons, wreath and ginger and spice tulips, iris, ladybug on sun flowers, Marie barber rose pillow, roses, summer sweets, the garden gate, Victorian bouquet, wild flowers of the water ways.

Forget me Nots: a mother's love, bedtime, guest bed and bath, like mother like daughter, passing, admirers, picking wild flowers, school days, the sampler's market, winter wonderland.

Graph it Arts: country and lace, on a country shelf, great big graphs, a trio of tree houses, baby giraffe, merry trolls, up up and away, white tiled deer,

Disk B:

Jan Hagara: Betsy, Carol stocking, Chris stocking, Jimmy, Larka, Lesley, Lydia, spring and lace.

Janlynn: a moment to remember, best friends, collecting shells, brother wolf, princess and the unicorn, tales of duck port.

Jeanette Crews: 55 holiday motifs, giftables for friends.

Jeremiah Junction: Look on the other list it's the same.

Just Cross stitch: clown alphabets, earth to sea, angel of song, winter wonder, tropical fish, woodland friends.

Just Nan: Felicity, Joy, wild flowers.

Lanarte: Abc's bears, giraffe, marjolei bastin gathering, meadow dance, surla branch, Vera abc's

Landmark tapestries: stain glass.

Lavender and Lace: look on other list.

Leisure Arts: angel alphabets, apple of his eye, babies don't keep, daisy girl, favourite perches, garden bounty, hair raising Halloween, hanging out, bear hugs, what boys and girls are made of, when angels pray, favourite fingertip, recipe for a happy child, Christmas towels and bread, dare to dream, nativity, puppy love, sea side, sweet hearts, song of the bluebird, treasured teddies, wedding samplers.

Marty Bell: goshell flower shop, tuck box tearoom, sweet blue.

Mirabilia: Look on other list.

Miscellaneous: a thankful heart, antique welcome, apple alphabets, bashful bunnies 4 pc stitch, bears (baby bear, baby dream boat, teddy and dog), brick cottages, cartoon characters, child hood revised, cocks crows cottage, country alphabets, cute dragons, dance to the total eclipse, Disney, Disney babies, enchanted alphabets, family love, kewpies, Looney Toons, more Looney Toons holiday, Mary and the snowman, Monopoly, Noah's ark, nursery rhymes, old mill, patch work snowman, pm alphabet, pm Noah's ark, summer at the sea, suspense, tales of the haunted hallow, tea time bouquet, the maiden's ladies, the sea, Thomas the tank engine, to see a world, light houses, tie dyed snowman, Vera birth sampler (boy & girl), Victorian quilt, welcome home, witches dance, Christmas ark, boy bunny, sewing mice.

Disk C:

Native American: Apache marriage blessings, bear dream catcher, ceremonial dance, ceremony for a new day, cloak of vision, dream catcher, dream catcher lovers, dream catchers wolves, grandmother moon, mountain lion, native American heritage, native spirits, pride and strength, S.W. serenade, S.W. tribal treasures, spirit, 3 generations, together, tribe woman, walk in my moccasins, walk softly, white lightening, wolf sister, dream catchers in pdf.

Omni book: omni book in the wild.

Paula Vaughan: cherished dreams, delicate beauties, forgotten basket, friendship bouquet, friendship quilts, garden party, good neighbours, grandmother's garden, in the garnet, inviting gate, job's tears, little woman, loves promise, memories of Christmas, mid summer roses, morning song, morning star, old barn, inspired by scripture, Jan.-Dec. rosy repose, simply sunflowers, sonnet of love, comes calling, summer welcome, the embroiderer, the porch swing, the Quilter, thoughts of spring, the word, victory garden.

PC Stitch: 3 elf's, dolphins, deer's 2 of them, giraffe, honey moon, peaceful dreams, rhino's, tiger, wolf.

Plastic Canvas: hey diddle diddle, fairy friends.

Praying Hands Collection: country and lace, on a country self, legend of dogwood, speaking of angels (praying hands), roots and wings

Sam Hawkins: dew drop, dragon fly fairy, spider web fairy,

Samplers: amid the Amish, beach sampler, cheerful giver, cow quilt, desert rose, give us this day, harvest sampler, harvest season's, marriage verse, mini quilt, quilt alphabets, quilt blocks, quilt clip, quilt sampler, swarming the honey hive, the potting shed, limited sampler

Serendipity: Ming peonies

Silver Lining: columbine, dream lover, Ingrid SL. Peek-a-boo pansies, red pansies, dream catcher, prima ballerina, purple perfections, royal velvet, sterling silver

Stoney Creek: a Christmas to remember, bordering on extinction, friends of nature, grandma's trunk, MRS. Tuddie, Noah's submarine, Saturday evening post sampler, sporting adventure, reflections, angel of hope, hush puppies, piano hour, teddy treasures, tickle your funny bone, touches of love, wildlife wonders

Teresa Wentzler: angel of frost, autumn fairy, Camelot sampler, carousel horses for all seasons, castle sampler, day, dragon ride, Egyptian sampler, English garden sampler, fantasy sampler, fantasy triptych, father winter, floral bell, foot prints, fruit bell pull, Gabriel, gentle creature, lady of the shallot, legends of the dragon, lily maiden, magical night, mermaid, millennium, misty, nativity, night Noah's ark, old barn, peaceable, kingdom, peacock, majesty, Pegasus, Persian floral, petites castle and dragon, playful kittens, rapunzel, Romeo and Juliet, rose tree in bloom, spring fairy, stretch the dragon, stroke of midnight, summer fairy, tapestry cat, tea and tarts, the castle, the enchanter, the guardian, the story teller, think snow, trade winds, tree top sampler, autumn fairy, in the garden, under the evergreen tree, unicorn, winter fairy

Disk D:

The Design Collection: kitties at play

Thea Gouverner: crocus, the secret garden book, fritallaria's herb garden, joy of spring, orchard of harvest, romance of the roses, wild flower, bulb fields daffodil & gladioli and panels

Thomas Kinkade: end of a perfect day, lamplight bridge, light of peace, lamplight Brooke, stone hearth hut, chandler's cottage, garden of promise, light of peace, spring at stone gate, the rose arbour cottage

Told in the Garden: look on other list.

True Colours: a family of frogs, books spirits book mark, the spot, graceful cranes, in search of angels, mountain majesty, party time babes, sleeping beauty, tropical waterline, 2 mermaid's, the cutest Christmas

Vermillion: basket of kittens, flower bears, forest Santa, herald angels, holiday animals, portrait of Santa, rosy bouquets, the meaning of friendship

Victorian Houses: EB. Hall house, Carson mansion, the picnic lady

Paula Vaughan CD: a brides prayer, a cameo of the past, a little girl fancy, April shower, cherished moments, fabric of dreams, fiddler quilt, from mom's hands, this is the day, gather rose buds, gentle delights, grandma's quilt, granny's attic, lets pretend, love songs, may flowers, preserve, quilt for all seasons, day lily, debut gentle past time, image of the past, stolen moments, summer comes calling, thoughts of spring, bouquets for Elisabeth, a visit with Paula, always a lady, aunt Verdi's porch, bound by love, cherished melody's, grandma, let's pretend, love songs, pink ribbon blue bonnet, quilting lessons, quilts for each month, quilts for the bible, rose of Sharon, sister 3, something old something new, spring remembered, summer welcome, sunlight silhouettes, tea roses and romance, the bride, the fabric of dreams, the Quilter, the seamstress, upstairs sewing room, wedding ring bouquet, yesterday dreams, preserve time, perfect patterns, garden of love, quilting lessons, reflect past, rose for thee, sisters, summer breeze, sweet violets, through a mum's eyes, victory garden

Stoney Creek CD: animal kingdom 2, baby grand piano, (bailey, graduate, Eddie, bailey and Emma, rosemary, Mrs. Tuddie) Boyd's bear, basket of flowers, beacons by the shore 1&2, beauty by the sea, Bessie Pease Gutman (pals, awakening), blue winged teal, cardinal, carousel dreams, caught in the act, cherished heritage, Christmas cardinal, coronations 13, cow recipe box, crystal sampler, dental proverb, earth angel, flight of fantasy, forest friends afghan, friendly faces, friends come in, frog stitch, golden, happy dreams, harmony, harmony 2nd copy, heart felt sampler, home repairs, home sweet stitching, in disgrace, in disgrace 2nd copy, king of the cornfield, kitty litter, light house point arena, light house point Isabella, light house serenity, light cottages sampler, little mother, love earth it all, mother's touch, my secret garden, mythical moments book, nitey night 2nd copy, Noah's submarine, north pole pals, one day at a time, our wedding day, peace, piano hour 2nd copy, pig tales book, pin tails, poinsettia quilted, with love, reward, rub-a-dub-dub, Rudy's sampler collections, scenic splendour, shoreline beacons, simple pleasures, skaters, snowman on parade, soft summer breeze, spices spirit of the SW., spook tackler Halloween, star spangled pride, stitch or treat, a visit from father Christmas, angels of light, animal kingdom, asking for trouble, aunt tizzie talks, bears paw friends, bouquet of splendour, bride path, Christmas from the heart, Christmas to remember, home stitching, humble stable, it's a dog's life, Jody's friends, Melbourne and Perth, mothers booklet, Noah and a eternal promise, not a creature was stirring, reptiles and amphibians, stitching safari, teddies for the year, the ark, the sampler, why god made little boys, why god made little girls, playful paws, copper country, voyage of discovery, summer shore line, summer sun, tapestry roses, the good Shepard, timeless memories, tricky treats, tropical reefs, Victoria point light house, warblers welcome, way down yonder, when this you

see, wildlife refuse, windy day, winter fun, winter fun2 winter traditions, wood ducks, work of art, wedding sampler

LAVENDER AND LACE

L&L1	serendipity	L&L51	world peace angel
L&L2	winter rose	L&L52	angel of mercy 2
L&L3	lady of the thread	L&L53	angel of morning
L&L4	little wings		
L&L5	the tea garden		
L&L6	gift of peace		
L&L7	angel of light		
L&L8	counrty fair		
L&L9	the bride		
L&L10	angel of freedom		
L&L11	the spirit of christmas		
L&L12	enchanted alphbet		
L&L13	angel of hope		
L&L14	sweet dreams		
L&L15	angel of grace		
L&L16	earth angel		
L&L17	heavenly gifts		
L&L18	guardian angel		
L&L19	the wedding		
L&L20	nantucket rose		
L&L21	santa of the forest		
L&L22	ice angel		
L&L23	angel of spring		
L&L24	oh, christmas tree		
L&L25	angel of love		
L&L26	angel of summer		
L&L27	the quiltmaker		
L&L28	angel of mercy		
L&L29	I thee wed		
L&L30	angel of autumn		
L&L31	morning song		
L&L32	celtic christmas		
L&L33	angel of winter		
L&L34	queen anne's lace		
L&L35	angel sampler		
L&L36	blue moon angel		
L&L37	angel of the sea		
L&L38	mother's tree		
L&L39	angel of christmas		
L&L40	white lace		
L&L41	fairy dreams		

L&L42 fairy grandmother
 L&L43 peace angel
 L&L44 angelica
 L&L45 lady claire
 L&L46 song of christmas
 L&L47 in the arms of an angel
 L&L48 firefly fairies
 L&L49 emma's garden
 L&L50 celtic spring

MIRABILIA

MD1 damask rose
 MD2 fairy moon
 MD3 the rose of sharon
 MD4 garden verses
 MD5 sleeping beauty
 MD6 christmas elegance
 MD7 fairy flora
 MD8 the dreamer
 MD9 my lady's garden
 MD10 elizabeth and lavender sky
 MD11 mother's arms
 MD12 the kiss
 MD13 the winter queen
 MD14 english roses
 MD15 santa's magic
 MD16 baby boat
 MD17 stone roses
 MD18 blooming bride
 MD19 deco spirits
 MD20 fairy tales
 MD21 fairy idyll
 MD22 the summer queen
 MD23 rose celebration
 MD24 christmas flourishes
 MD25 angel procamation
 MD26 mermaid of pearls
 MD27 millenium angel
 MD28 crystal christmas
 MD29 snow days
 MD30 midsummer night's fairy
 MD31 giggles in the snow
 MD32 under the friendship tree
 MD33 touching the autumn skys
 MD34 the spring queen

MD35 waiting for the ships
MD36 savannah's curtsy
MD37 three for tea
MD38 titania queen of the fairies
MD39 villa mirabilia
MD40 ashley's roses
MD41 aida, the garden fairy
MD42 deepest love
MD43 enchanted dreamer
MD44 the garden muses
MD45 the autumn queen
MD46
MD47 april's blue diamond
MD48 rose about
MD49 gathering egg's
MD50 summer in my garden
MD51 the seaside kingdom
MD52 june's pearl fairy
MD53 spring in my garden
MD54 the scent of old roses
MD55 mother's bliss
MD56 may's emerald fairy
MD57 the queen mermaid
MD58 queen of peace
MD59
MD60 the blossom harvest
MD61 christmas wishes
MD62 the lady of the flag

LITTLE STITCHES

Moonlight lullaby
Newborn joy
On grandmother's quilt
Rosebud lullaby
Crescent dreams

MY OTHER LIST

MARBEC

Snow angel
Arcadian angel
Windermere angel
Tudor angel
victorian angel

Woodland angel
Tapestry angel
Starlight angel
Serenade angel
Kirov angel
Forest angel

DIMENSIONS

A merry noel
Catch of the day
Holly angel
Let it snow
Midnight snowman
Snowfolk
Their's snow place like home
Winter run
Dancing dolphins
Alluring sorceress
Lady and the unicorn
Kindred spirit
Dragon and castle
Southwest carousel
Dragon
Polar santa
Charming cottage
Northern dignity
Garden bears
Hummingbird and cactus
Gentle wisdom

SERENDIPITY

Chinese embrioderer
Colonial embrioderer
Italian renaissance embrioderer
Mideval embrioderer

NATIVE AMERICAN

Winter
Gather your dreams

Coming home
Noble reflection
Guardian spirit
Spirit of the eagle
Scared connection
Spirit of the southwest
Earth is our mother
Native american families
Spirit of the indians
The bear
Hiawatha
Indian brave
Indian chief
Indian maiden

JAPANESE

Geisha girl #4
Japanese winter

LILLIPUT LANE

Penny's post
Porlock down
Waterside mill
Kendal tea house
Marigold cottage
Periwinkle cottage
Shakespear's birthplace
Blue boar
Railway cottage
Toy shop
Honey pot cottage

LANARTE

Arabian woman
Summer fruit
Lazy afternoon
Seaside sweethearts
The pecking order
Wildflowers
Meadow dance

COUNTRY COMPANIONS

A wish for christmas
Christmas snuggle-up
Potty training
Shrewd dude
Let's celebrate
Tulip
Book 1&2
Ed the hedgehog
Me first
Knit one purl one
Just like dad
Up up and away
Warm and cosy
Oliver and friends
Party time
Poppies
Woodland world 1
 Lots of love
 Sunflowers
 Afternoon nap
 Quiet as a lamb
 Santa's helper's
 Toy shop
 Rose
 Handstand
 Sorvie and teen
 Ed kite flying
 On the river

ALL OUR YESTERDAYS

ABC
 Birthday balloon
 Teddy came too
 Paddling
 The swing
 Splash
 Seaside
 Follow the leader
 Nostalgia
 Big ben
 On the pier

PERCIOUS MOMENTS

Abc sampler

DONNA GALLAGHER CREATIVE NEEDLEARTS

Christmas peddler

Merry mouse sleighride

Special delivery

VERMILLION

Morning glory

Bears bell pull

Boy's teddy

International bears

Four season's cats

TOLD IN A GARDEN

Baby in a basket

Gathering of roses

The auction

Under the orchard

Victorian bride

BUTTERNUT ROAD

Feathers and friends

Catch the wing

Children's garden

The teacher

Earthdancer

Spiritdancer

HUMMEL

Apple tree boy

Apple tree girl

Angel duet

Bashful

Feeding

Globetrotter

Goatherder

Care free days

Playtime

School mates
 Little gabriel
 Ready for rain
 The birthday gifts
 The hikers

DISNEY

Mulan
 Looney tunes astrology
 Lady and the tramp
 Mickey's xmas tree
 Castle
 Beauty and the beast dancing
 Off to work we go
 Snow white and the 7 drawfs

MAGAZINES

D M C

JEREMIAH JUNCTION

Baby bunnies
 Country bloomers
 Country crows
 Country kitchen
 Country warms the heart
 Cross stitch crazy
 Home spun love
 I love dogs
 A country christmas
 By the dozen
 Our country home
 I love country folks
 Birthflower
 Timeless seasons
 Blessings
 Kitchen potpourri
 The star of bethlehem
 The night before christmas
 An olde fashioned christmas

Shaker seasons
 Bird watcher
 Friends who count
 Home is where the heart is

STONEY CREEK
 Mythical fantasies

TERESA WENTZLER
 Christmas sampler
 Rocking horse
 Celestial dragon

GONE WITH THE WIND
 The kiss
 Tara

6. From: "skimmersisters" <skimmersisters@mindspring.com>
 Date: Thu Jan 17, 2002 9:57 am
 Subject: Pick Of The Week

I thought I'd share with folks one of my favorite messages of this week:

>>look and see what i have

here is a list of patterns that are on my pattern disk #1.

let me know if there is anything anyone would like. this is easier than me trying to figure out what everyone would like, and maybe you will see something you have been looking for. i will send the list for disk #2 when its finished
 b.....

Cd 1

Quick and Easy 30 world sites
 Coates & Clark 100 Embroidery Stitches
 Mirabilia Designs A Mothers Arms
 Forget Me Nots A Mothers Love
 Leisure Arts ABC Bears
 Alma Lynn Bear Collector

Alphabets The American Alphabet
 Lavender And Lace The Enchanted Alphabet
 Stoney Creek Americas Heartland
 Mountain Passage no cover
 Leisure Arts At home With Angels
 Alleluia Angel
 Christmas Keepsakes And The Angel Said
 Christmas Keepsakes Angel Afghan
 Just For Baby Angel Birth Announcement
 Angel Graph
 Pikos Cross Stitch Garden Angel of Christmas
 American School Of Needlework Angel of Fantasy
 Stoney Creek Angel of Hope
 Angel of Love
 Christmas Angel
 Angel of Night
 Lavender And Lace Angel of Mercy II
 American School Of Needlework Angel of Peace
 American School Of Needlework Angel of the Harvest
 American School Of Needlework Native American Angel
 American School Of Needlework Nordic Angel
 American School Of Needlework Russian Angel
 American School Of Needlework Six Heavenly Designs by Barbara Baatz
 American School Of Needlework Cross Stitch Borders
 American School Of Needlework Garden Giggles
 Angel pillow
 Alma Lynn Angel with an Ark
 Alma Lynn Angel with Bird
 Alma Lynn Angel with Wreath
 Angel with Harp
 Angel with Violin
 Angelic Orchestra
 Angels of the Seasons
 Chrysanthemum Angel
 Crystal Ball Angel
 Dimensions Daydreaming Angel
 Heavenly Messengers Gloria Angel
 Glorious Angel Tree Topper
 Goodnight Angel
 Hallelujah Angel
 Heavenly Melodies Tree Skirt
 Heavenly Messengers
 The Herald Angel
 Dimensions Holly Angels By Ruth J Morehead
 Lavender & Lace Ice Angel

Joyous Angels
 Lavender & Lace Yearly Angels (1992,1993,1994,2000,2001)
 Lavender & Lace Celtic Christmas
 Majestic Angel
 Music Angel
 Fabric Series Musical Angel
 Angel With Horn Pillow
 Noahs Ark Angel
 Old World Angels
 Pikos Cross Stitch Garden Angel of the Lily
 Pikos Cross Stitch Garden Praying Angel
 Pikos Cross Stitch Garden Spirit Of The Rose
 Pikos Cross Stitch Garden Pikos Angel
 Black Swan Rose Globe Angel
 Speaking of Angels
 Told in A Garden Angels (1987,1988,1989,1990,1991)
 Army on Parade
 Barbara Baatz Brides
 Green Apple Beatrix Potter Alphabet
 Monika Peterson Best Friends
 Big Day For Susan
 Food Memories Inc. Bits n Pieces Magnets
 Leisure Arts Bookmark Treasury
 Design Works Calender Bears
 Thomas Kinkade Chandlers Cottage
 Archangel Micheal by Solaria Gallery
 Dimensions Behold a Savior
 Christ Portrait
 Dimensions Country Ark
 Praying Hands Footprints In the Sand
 Design Connection Genesis
 Gifts Of The Magi
 Needlecraft He Leadeth Me
 Needlecraft Heart of Hearts
 Holy Family
 Gallery Collection Holy Night
 Carol Emmer Jesus in The Garden
 Love and Joy Nativity
 Christmas Keepsakes Madonna And Babe
 Madonna And Child Ornament (two Different ones)
 Leisure Arts New King
 Mosey N Me Noah and Crew
 True Colors Noahs Ark
 Noahs ark afgahan
 Stoney Creek Noahs Submarine

Solaria Gallery Prayer of Christ
Dimensions Prince of Peace
Solaria Gallery St. Peter
Needlecraft The Lords Plan
Leisure Arts 50 Fast & Festive Ornaments
Antique Toy Tree Skirt
Dimensions Believe Calender
Leisure Arts Checking it Twice
Christmas Afgahan
Christmas Advent Calender
Christmas Corner Dove Tree Skirt
Christmas Express
Christmas Montage
Christmas Shop
Christmas Village Tree Skirt
Father Frost Stocking
Forest Santa Stocking
Gloria and Pat Gingerbread Christmas
Holiday Scene
A Magical Season
Merry Christmas Sign
Teddy Bear Tree
XS Candy House
A Christmas Welcome
Holiday Gathering
Christmas Tree With Toys
Christmas House
Christmas Eve
Church Ornaments
Heavenly Sent Ornaments
Midnight Sleigh Ride
Stocking Ornaments
Miscellaneous Christmas Ornaments
Poinsetta Picture
Marty Bells Rocky Mountain Christmas
Leisure Arts Portrait of Santa
Cross My Heart Antique Santa
Barber Shop Santa
Beloved Santa
Wendy Jones Father Christmas
Father Christmas Ornament
Father Frost
Father Ice
Kris Kringle
Legendary Santa Ornament

Dimensions Mountain Santa
 Ole Kriss Kringle
 Old World Santas
 Pere Noel
 Pere Noel Ornament
 Wendy Jones Saint Nick
 Santa Afgahan
 Santa Bell pull
 Santa Sampler
 Playful Postage Santa Stamp
 Toys to treasure Santa with toy bag
 Treasures in Needlepoint Santas List
 Sinter Klaas
 St. Nicholas
 True Blue Santa (ornament)
 Visit With Santa (plate)
 Christmas Keepsakes Woodland Santa
 Stained Glass Ornaments
 Bucilla Santa Stocking
 Fishermans Stocking by Louise Young
 Full face Santa Stocking
 Christmas Corner Hush a Bye Baby Stocking
 JanLynn Santa Stocking
 Ladies of Williamsburg Stocking
 O Holy Night Stocking
 Stitchers Stocking
 Stocking Bear
 Winter Wonderland Scene
 Christmas 1994 by Gloria and Pat
 Snowman Placemat
 Leisure Arts Christmas Cubbies
 Leisure Arts Christmas Keepsakes (hard back book)
 Leisure Arts Christmas Portraits (hard back book)
 Stoney Creek Christmas To Remember
 Great Big Graphics Cityscapes by Moonlight
 Pegasus Originals Come with Me
 Meridel Abrams Cookie jar Series
 Ellen Maurer-Stroh Animal Baby Series
 Stoney Creek For Home and Hearth
 Grandparents Sampler
 Ms. Cillas Graphs
 Cross Stitch Halloween Alphabet
 Saturday Evening Post Halloween Tricks
 Stoney Creek Happy Haunting
 Stoney Creek Haunted Hospitality

Stoney Creek It's the Stitching Hour
 Night Watchman (Halloween)
 Leisure Arts Ready to Scare
 Halloween Sign
 Stoney Creek Spooktacular
 Jeanette Crews Designs Happy Seasons
 Jeremiah Junction Herbs And Spices
 Holidays in Xs 1990 (hardback book)
 Holidays in Xs 1991 (hardback book)
 Dover Needlework Series Illustrations From Children's Classics
 Stoney Creek Jody's Friends
 Leisure Arts Kitchen Collection
 Lady in Red
 Loveable Teddy Bears Sampler
 Memorial Samplers (9-11-01)
 Leisure Arts Merry Christmas from A to Z
 Stitches Two The General And His Lady
 Needlecraft Southern Belle
 Country Cottage
 Charles Craft Country Cottage
 Cowboy Sampler
 Favorite Things
 Girl With Pansies
 Home Sweet Home
 Imagining Life's Path
 Bessie P. Gutmann's The Reward
 Teacup Sampler
 London Doll Company Heirloom Dolls
 Garden Kitchen Set by Mike Victory
 Occupations (doctor and Nurses Prayer)
 Dimensions As Seasons Change
 Judy Counts (#2,3,4,6,10,11,17,18,24,28,43,99,3 vs 24,banner,Dale
 Earnhart,Winston Cup Champ)
 Nomis NFL Minis
 Stoney Creek One Day At A Time
 Buckeye Designs Pacific Coast
 Color Charts Pinky and Blue Boy
 Designs by Pat & Gloria Precious Moments Two By Two
 Princess Diana Charts (two different ones)
 Canterbury Designs Quaint And Collectible
 Motorbike Sampler
 Judy Counts Racing
 Sea Treasure Towels
 Country Folks Seasoned with Love
 Serenity Prayer

Star Wars Xmas Ornaments
 Stitching The Standard
 Dimensions Sweet Inspirations
 Teddy Bears
 Leisure Arts Teddy Time
 Leisure Arts Tenderworn Teddies
 The Design Connection Things
 Jeremiah Junction Timeless Seasons
 Stoney Creek Touched by Grace
 When I Prayed For Patience God Gave Me Children<

7.
 the first cd are only kits, its 11.00
 I have three others that are shared (from lists) my scans. that kind of thing they each are 10.00
 arlene delsignore
 811 fairbank herbert road
 new salem pa 15468

I do accept paypal.
 pay through paypal. Sign up for paypal and get 5.00 free from them
 just click the link below
<https://www.paypal.com/refer/pal=sambo1%40charter.net>

8. From: iwantmorepatterns
 To: copy_rights@yahoo.com
 Sent: Saturday, May 25, 2002 11:30 AM
 Subject: [Copy Rights] i have to have my say

"hello to all you plastic members,
 i all am a members of pc clubs and love them all. im not a trouble maker but i have to have my say.
 ok all trolls ,we the members are tired of you trouble makers,you most have no life, our clubs are one
 big happy family and will stay that way, YOU CAN TRY TO CLOSE ALL PLASTIC CANVAS
 SIGHTS ,LOL BUT WE WILL COME BACK AND BACK AND BACK, WE CAN MAKE
 CLUBS AFTER CLUBS.HELL WHAT IS GETTING MORE USER NAMES AND KEEP ON
 POSTING AND POSTING. there are a lot of members you cant scare . we dont sell them ,we
 members help this pattern places out by buying the patterns,
 WHAT WE MEMBERS NEED TO DO IS,START A PRO TEST AND BOY CAUGHT AND
 STOP BUYING PATTERNS, DO YOU KNOW IF IT WENT NATION WIDE,JUST HOW
 MUCH MONEY THESE COMPANYS WOULD LOSE ,LOL,I LOVE MY CLUBS
 just like my name says i-want-more-patterns, ok im done for now .lol happy stitching girls,
 IWANTMOREPATTERNS"

9. ﻿Date: Wed Jan 30, 2002 8:42 pm
Subject: Re: [Doll4CrochetOnly] ATTENTION MEMBERS

I am also a list owner..and know what its like to wonder if you have a troll on your list, but a troll doesn't send any patterns...so if you have anyone on the list that isn't sending in patterns then that is who you get rid of...as for me...I send patterns (as I just did last week) when I am home.. I travel with my DH in the semi lots and so am not home very much...But when I do send in patterns it is usually enough for the next 2 or 3 months...lol.....anyway...if this isn't acceptable then you will have to unsub me...but I can't send in patterns every 2 weeks as I am simply not here enough to do this...
Thank you
Evy

----- Original Message -----

From: affirmation2002@s...
To: affirmation2002@s...
Sent: Wednesday, January 30, 2002 4:41 AM
Subject: [Doll4CrochetOnly] ATTENTION MEMBERS

I HAVE JUST ADDED purpleunicorn45@a... TO BE THE MEDATOR OF MY GROUP AS SHE IS OF ALL MY OTHER GROUPS BECAUSE OF THE TROLL PROBLEM YOU WILL ALL BE ASKED TO SEND A PATTERN TO THE GROUP ONCE EVERY TWO WEEKS IF YOU CAN'T THEN YOU WILL BE REMOVED. IF FOR SOME OTHER REASON YOU CAN'T POST PLEASE LET HER KNOW WHY YOU CAN'T THANK YOU FOR YOUR TIME IN THIS MATTER AND I AM GOING TO TAKE ALL OF MY GROUPS OF LIST TO FIND THEM THANK YOU AGAIN MICHELLE

Trolls are relentless, I'm afraid. They never give up. Case in point...I had a small list at one time for List Moms only. There was no sharing on the list at all, just the List Owners swapping ideas on how to keep the groups as safe as we possibly could. Well, this one designer sent in a request to join this list! We have no idea how she even found us. Her request was denied, of course. next, we got emails from her that she demanded entry (yes, DEMANDED) or we would be turned over to Yahoo. We ignored her threats. She sent in an email to Yahoo (CC'd it to us so we'd know) complaining about the list and made accusations that we were sharing copyrighted patterns on the list in this email to Yahoo. At that point, we simply shut the list down and moved to another list server for a while, eventually we went back to Yahoo. Just wasn't worth the hassle of fighting with her. Oh, we never heard a peep from Yahoo on this matter, but I did email Yahoo myself about her and tell them SHE was harassing US.

GOD BLESS AMERICA

Hello again Trolls Good I hope they told her off !!! And cancelled her account.
Thanks Jeri

To hide the member list, go to the settings area and go to where it says members, select only

moderators can view the list. It's so much better for the list to be hidden for everyone's sake. Nope, she is still around causing trouble. Her name pops up too often. Wish I could remember her name now, but I think I blocked it. LOL. If I see her name, I'll remember, that's for sure.

Hi all,

Some of you know me from other groups & from ebay. I am just getting original patterns collected now. I don't have many originals & some of those that I do, have already been scanned, sent, shared, & mailed. I got a scanner for Christmas & am scanning & saving those I have. I don't think I can send every 2 weeks, but I will give it a try. Also, I have ordered a hard-back version of Fashion Doll "Fantasy" book I found on the internet through book find. A wonderful member of this group sent most of it out. It will take me a while to scan it & if anyone wants it, let me know later on. So many of you have been soooooo generous with sharing your patterns, I could never have afforded them separately. I have had to back off from a few groups, as they have been sending a lot & jamming up my email box & the company keeps sending me warnings. You are all so great. I AM NOT A TROLL!!!

Can't stand the little creatures (big ones either). I can't understand who we are hurting. A lot of times just receiving a pattern via email gets me interested in finding an original. Everyone should be proud that we want to share & find their patterns. Well, I put in my 2-cents worth. Chat later.

LOL, Daryl Roberts in Kentucky - daryls_dollys

you go gina! maybe getting them in trouble for harassing us will get them to back up. i can not believe she was bold enough to demand you into letting her in. that women needs to be banned from yahoo for should a act like that ! hugs janice

10. "ladies i need two things from u before i can approve your membership

1..please tell me alittle bit about yourself

2..this group is for kits only and i need u to send me a pattern and it must be a kit

thanks

CrazyForPC@SoftHome.net"

11.

Linn Skinner **To:** Donna Vermillion Giampa **Sent:** Saturday, April 13, 2002 7:48 PM **Subject:** Charity

Donna, I was forced to upload your Charity chart to stay in a group. The largest MSN group was axed from 1,500 to 500+ members today after House of White Birches had some pages taken down.

Again thanks for letting us use this design

Linn

12. From: Kimberly
 To: Plastic Canvas Anonymous
 Sent: Saturday, June 01, 2002 4:25 PM
 Subject: ATTENTION CRZYSTITCHER!!!!!!!!!!!!!!

New Message on Plastic Canvas Anonymous

ATTENTION CRZYSTITCHER!!!!!!!!!!!!!!

From: Kimberly

IF YOU ARE OUT MONITORING SITES THEN YOU BETTER MONITOR YOUR OWN!
 HERE IS A COPY OF THE MESSAGE YOU POSTED ON THIS WEB SITE:

From: crzystitcher (Original Message) Sent: 2/22/2002 8:20 AM

Just wanted to let you know my nephew and I have started a site where I can share cross stitch charts and crochet patterns.

<http://www.picturetrail.com/crzystitcher>

Thank you, Ruth

WE ARE DOING NOTHING WRONG AT ALL BUT SIMPLY SHARING WITH FRIENDS! IF YOU HAD A PROBLEM WITH THAT YOU SHOULD HAVE NEVER JOINED. I HAVE BEEN WONDERING WHAT WAS GOING ON WITH ALL THESE WONDERFUL TROLLS BUT I GUESS YOU JUST GAVE US ALL A LIST TO ADD ON IGNORE, THAT IS IF YOU DON'T CAUSE US ALL TO LOSE OUR SITES NOW.

YOU PROVE THERE IS SOMETHING WRONG WITH SHARING AND I WILL CLOSE THE SITE. THE PUBLISHERS AND WHATEVER CAN SAY WHAT THEY WANT BUT I HAVE EVERY PATTERN SAVED AND WILL CONTINUE TO SHARE LONG AFTER THEY SHUT THE SITES DOWN. SO WHOEVER READS THIS IF YOU NEED A PATTERN YOU BETTER EMAIL THE PERSON DIRECTLY OR SOMEBODY WILL BE RIGHT BEHIND YOU TO CAUSE TROUBLE!!!!

KIMBERLY
 (MANAGER)

13.	
http://www.francaise1.narod.ru/	(No longer active)
http://krestikom.vyshivaem.ru/	(Remains active 07/14/03)
http://www.cross-chart.narod.ru/index.htm	(Remains active 07/14/03)
http://www.francaise1.narod.ru/	(Remains active 07/14/03)
http://www.alsenik.narod.ru/frames.htm	(Remains active 07/14/03)

<http://lovecross.narod.ru/main9/cross.htm>

(No longer active)

14.

From: Stoyanka Ivanova - Solaria <solaria@ibn.bg>
Sent: 06/28/03 07:53 PM
To: Linn Skinner <skinersisters@mindspring.com>
Subject: a dangerous chinese bbs

1. >

> Hello Linn,

Two days ago I have visited a chinese needlework message-board. I have been informed that there are some of my old free designs, so I wanted to see. Terrible place! I'm as ill since then. All most popular patterns of most popular designers are there - ready for downloading. To enter there:

<http://www.meilaodiy.com/bbs/list.asp?boardid=716>

use this (I have registered this account two days ago):

username: a_michael (as Archangel Michael!)
password: 666666

See this link - it is about "L&L" (but before this you have to log-in):

<http://www.meilaodiy.com/bbs/dispbbs.asp?boardID=42&ID=9767>

I saw there, a netherlandian (!) visitor have asked about MLI patterns - but not to buy, but to download them?! ;-(This chinese message-board obviously is very popular not only in China... You will see, that is not so hard to find what you want, using "Search" option (unfortunately only for titles of the messages, I didn't see how to search in the body of the messages). Obviously the chinese language is not a problem for the stitchers...

Here is a link to the index of the designers:

<http://www.meilaodiy.com/bbs/dispbbs.asp?boardID=42&ID=9360>

You even can't imagine how many patterns are there! I have sent two days ago emails to MLI, Mirabilia, Lanarte and Kustom Krafts to let them know about this place, but I still haven't reply from them (only Dyan replied me), so I'm not very sure, if they read or not my emails.

There is a text near some patterns:

The post requires a score above 100 to view.

If I understood well the idea, every visitor, who uploaded a design, receive some number of points as a score. The beginners (as my account: a_michael) can't download some of the charts, because they miss the needed score. If you need to receive a proof about your patterns there, you must to upload there some charts???! This is not only madness, this is an invocation to a crime!

By the way, "meilaodiy" means:

meilao - i think, this is a name of the owner

diy - Do It Yourself - this is a business, they sell a lot of things, cross-stitch materials too...

So this bbs is a kind of advertisement for them.

<http://www.meilaodiy.com/bbs/dispbbs.asp?boardid=12&id=12666&replyID=116112&star=2&skin=>

Read this - about their problems with too big traffic.

<http://www.meilaodiy.com/bbs/dispbbs.asp?boardid=12&id=12998>

Now they are on another server and will pay 1275 USD for an year.

As this bbs is an initiative of a company, and its main purpose is to make this company more popular, this is not only copyrights violation and an invocation to a crime, but disloyal competition too.

I can send them just now an email with extracted texts from their chinese law:

<http://www.china-laws-online.com/intellectual-property-rights/index.htm>

and demand removing my designs from their bbs and it is very possible to reach my goal. But frankly, I think, the better decision is to close this bbs. It has too wrong idea... But I'm not so affected side to can close it...

I only afraid that this bbs is too popular to can be closed. But if it is so popular now, imagine after an year! It's better to try now, than to wait even some months...

Sorry for so long post, but I really believe, that you are the right person, who can give a good idea what to do... I do think that Marilyn and a lot of others will need a help...

Regards,
Stoyanka

--
Solaria Gallery

15.
<http://www.web-canvas.com/default.html> (No longer active)
Language: French
Small number of covers uploaded for trading

<http://www.multimania.com/tricotine2001/> (Remains active 07/14/03)
Considerable number of designs uploaded for trade under rules set forth by owner
Language: French

16. From: "skinnersisters" <skinnersisters@mindspring.com>
Date: Mon Jan 28, 2002 3:21 pm
Subject: The Digital Act

I really do urge everyone interested in intellectual property rights on the web to read the summary of the Digital Millenium Copyright Act found at:

<http://www.loc.gov/copyright/legislation/dmca.pdf>

You will find that services providers (Yahoo, MSN, etc) are not required legally to take down a site because it contains infringing uploads. They are ONLY required to maintain an agent for copyright issues and that agent is required to receive and investigate claims by the rights holder that protected material to which that complainant holds the rights has been uploaded and then remove that specific material from the site.

This means if a site is found with 100 rights holders, someone with access to the site (seldom the holders of the rights) must document the infringement, ascertain the holder of th rights, notify the holder of the rights and then each and every holder of rights to material on that site must take the time and effort of preparing a formal complaint (sometimes if the agent gets to know you they let you fax the information to them) that meets the criteria of The Digital Act and forward it to the agent. Then the rights holder (who probably has no access to the clandestine group) must somehow ascertain that the infringed material has been taken down, although there are appeals rights under freedom of information theories that can be asserted by the uploader. This is ALL that is required of Yahoo and MSN under the law and this is what they are sticking to - to the letter of the law - no more and no less.

Sites are normally closed down and morphed by owners if they get too much hassle but seldom by Yahoo or MSN. In fact the only really cooperative provider was Club Photo and to a degree Photo Point. The average down time seems to be about 4 hours.

I feel for the folks who are being ripped off and sometimes don't even know it's happening in these dirty groups. If and when I find one of my designs uploaded, believe me the infringer will be sued and served in 72 hours or less.

Linn

17 July 5, 2001 Copy_Wrongs message

Debra:

I certainly don't mean to disparage you personally, nor the folks you work with, but it seems your hands are tied by a large organization. The Digital Millenium Copyright Act requires very little effort to get a URL of material taken off Yahoo or anyother ISP. One fax will do it. I've offered my password to your legal department several times and to two editors in person as well as on the phone so that the company can gather information. Now to make it easy for LA, I am doing their work for them and compiling a list of hundreds of URLs to material on which LA controls the intellectual rights. I'm sure someone from the company will be at Charlotte and I will give them a disc at that time. In my estimation, a good paralegal will be able to process a minimum of 50-100 faxes a day to get these pages down and Yahoo takes them down when the Act is complied with. This has been going on for over a year now, and LA has been aware of the problem for that amount of time. But I guess a year may be about average for some large corporations to make a decision, formulate a plan, assign staff, develop a policy, and take action. Fortunately the corporation also apparently has the resources to absorb the losses attributable to this problem.

I don't envy you your position between the designers you respect and corporation you work for.

I'm not saying Leisure Arts and their employees are bad people, just that they are apparently unable to deal with this issue. I'm going to make it easier for them and I hope your legal department has the resources to follow through on the research.

Linn Skinner

From: "Linn Skinner" <linn@skinnersisters.com>

To: "Pat Carson" <patcarson@sc.rr.com>

Sent: Tuesday, April 23, 2002 11:41 AM

Subject: Re: Job for you

Pat:

I certainly do not mean to harrass any needlework designer. I can only assume your comment about

my harrassing you reflects your frustration with the problem and not that you are actually accusing me of doing so. I merely have access to groups you can't get into. As you said in an earlier message you would like to have information, I had a little time and sent some things on to you. If this is not impacting you financially, I can certainly see why you don't want to spend any of your design time dealing with it.

I don't need a job as an investigator, thank you very much. I'm a designer myself and only send information on to fellow designers as a courtesy to colleagues. I'll add you on my "do not notify designer list" immediately as you now have changed your mind about receiving information.

Linn Skinner
Skinner Sisters
www.skinner SISTERS.com

19.
From: "skinner SISTERS" <skinner SISTERS@mindspring.com>
Date: Wed Feb 6, 2002 11:00 am
Subject: Thoughts from a Cynic

I've grown very cynical about our industry lately and am ever so pleased that few of the average consumers know how disorganized and selfish we all seem to be.

The manner in which we individually and as an affinity bound market group have approached the problem of cheap technology (i.e. the scanner) and ready access to distribution systems (i.e. the web) will hopefully give this sociology major material for a thumping good study paper one of these days.

We are hopefully in the business of design/publishing to the needlework consumer for the purpose of furnishing a product, making a profit and enhancing and growing our market as a whole.

When I saw that we were reacting rather than acting on the issue of infringement on the web, I felt some data needed to be gathered rather than relying on hit or miss anecdotal incidents. A group of extremely dedicated volunteers spent thousands of hours to survey an uploading site and publish demonstrable statistics for the use of our industry. This information seems to be of little interest to individual designers or the industry as a whole.

Another of our difficulties is lack of self-education in intellectual property law. It is not rocket science and the sources are freely available. I constantly hear from designers that they really haven't had time to 'read up on the issue' but that they have a basic understanding of the concepts. This is an ever changing field and the Digital Act is a beastie all its own. Everyone who deals in intellectual property needs to read it and understand it.

One of our continuing problems is our lack of willingness to take responsibility for each other. We

tend to only become advocates of the cause when our own rights are infringed upon. Call me old-fashioned but I believe I need to be just as worried and active in the cause to protect a plastic canvas designer, a crochet designer, a cross stitch designer as I am to protect my own rights. I'm just at the verge of losing those values however. Yes, I hate to come home from a show and find upwards of 1,000 digests from the groups I monitor that need downloaded and saved, but I do it to protect my rights. No I don't like to see my phone bill with the long distance charges on it as I notify someone their rights are being compromised I am increasingly unwilling to worry about anyone else however.

Another issue is our reluctance to seek professional advice from competent intellectual property counsel and to follow their advice. Hello folks, every business in the world needs legal advice from time to time and we all need to budget for those expenses.

My truly cynical self says "hey when everyone else's business dwindles and they move on to other ventures, my market share will surely increase." How many of you have seen sales and royalties decrease? How much of that is due to market conditions and how much due to lost sales? How many sales can you afford to lose? Perhaps because I'm so small an enterprise, every sale is important to me. Larger entities don't have to be so concerned I suppose.

Just a few thoughts from the front lines from a discouraged soldier.

Linn

20.

﻿Docket as of January 4, 2002 7:03 pm Web PACER
(v2.3)

U.S. District Court

Western District of Oklahoma (Oklahoma Cty)

CIVIL DOCKET FOR CASE #: 01-CV-1331

House of White Birch, et al v. Brewster

Filed: 08/22/01

Assigned to: Honorable Tim Leonard

Demand: \$0,000

Nature of Suit: 820

Lead Docket: None

Jurisdiction: Federal Question

Dkt# in other court: None

Cause: 17:501 Copyright Infringement

HOUSE OF WHITE BIRCHES INC Ross A Plourde
 plaintiff 405-235-0439
 [COR LD NTC]
 McAfee & Taft
 211 N Robinson Ave
 10th Fl
 Oklahoma City, OK 73102
 405-235-9621
 DRG TEXAS LP, individually Ross A Plourde
 plaintiff (See above)
 [COR LD NTC]
 v.
 LEANN BREWSTER D Kent Meyers
 defendant 405-272-5245
 [COR LD NTC]
 Joseph J Ferretti
 405-272-5256
 [COR LD NTC]
 Crowe & Dunlevy
 20 N Broadway Ave
 Suite 1800
 Oklahoma City, OK 73102
 405-235-7700
 Leann Brewster
 [COR LD NTC] [PRO SE]
 P O Box 282
 Texhoma, OK 73949

21.
 A Barbie Moment
 Anything4Dolls
 ATimeForChange
 Barbie_Fun
 barbiepatterntradingpost
 Cathie'sPCHeaven
 cathiespcheaven2
 Catkins_Craft
 chickadee2
 click In And Click Out Pattern Request
 Craft_Magazines-List
 Craftin Korner

Crafting_Friends
CraftyAngels
Crafty Moments
Crochet4life
CrochetBarbiePatterns
CrochetFamily
crochetisfun
crochetpatterns4all
cross stitch and needlecrafts
Cross Stitchin' Mama!!
Crosstitch exchange club
debspccorner
Doll4CrochetOnly
ElMaravillosoMundoDelPuntoDeCruz
el rincon de los encajes
EverythingBarbie
Everything Barbie 2
Free Cross-stitch patterns
frogsrbeautiful
frogsRbeautiful2
GinasPlasticCanvasCorner
havingfunwithplasticcanvas
JennyM's Place
JnSBuddies
JoyablePatterns
Kimko's PC N' Stuff
knittingkornr2
MyStuffNSuch
Needle-Art
needlepals
PatronesPuntodeCruz
Pattern_Sharers
PatternPiggiesHideaway
Patterns2002PC Barbie Furniture
pccraftingelite
PC R Us
PCC Tissue Box Covers & Others
PiggysParlor
PigsRPeople2
Plastic_Canvas_Anonymous
Plastic Canvas Leaflet List
plastic-canvas-lovers
PlasticCanvasPatternsToShare
PlasticCanvasHeaven
Plastic Canvas Place

Plastic Canvas World
 Precious_moments_patterns
 Punto de cruz y cia
 Pyxi's PC Pattern's
 Rainbowofcrafts
 redwork_designs
 Renee's Plastic canvas Site!
 repostdepot
 Stitchers R Us
 Surprise-Adventures
 swap_defenders
 The Kim Twins Creative Power Site
 The Plastic Canvas Creations Community
 The Yarn Over Crochet Network
 Todo punto de cruz
 Troia Jones Family History Site
 Troll_Collector
 University Of Pattern Pirates (Yahoo)
 University Of Pattern Pirates (MSN)
 UOPDFP
 UOPP
 Witchy's Stitching Place
 Yvette's Magical Poo Place
 Yvonne's Favorite PC craft times

22.

From: [J. Skinner Linn](mailto:J_Skinner_Linn) **To:** copyinfo@loc.gov **Sent:** Monday, May 20, 2002 7:23 AM **Subject:**
 Infringement and Needlework Design

I, and other needlework designers would very much like to draw to your attention a growing problem facing our copyright protected designs. We have been following for the last two years a sub-culture of infringers who use clandestine groups on the Internet (i.e. Yahoo Groups and MSN Communities) as well as photo uploading sites for uploading infringing scans of needlework designs and instructions.

This is not a case of handing a copy of a nice doily pattern to someone at church. It is widespread and rapidly growing infringement of publishers'/designers' rights and is creating an economic hemorrhage in our industry. Designers and infringers are voicing their views in a Yahoo group at http://groups.yahoo.com/group/copy_rights and about a year ago a group of volunteers surveyed just one group and compiled statistics which are available at www.skimmersisters.com/copyright as well as educational material prepared for distribution to designers.

Thank you for any attention you can bring to bear on our rather sadly neglected industry. We face a dilemma quite parallel to the Napster issues in the music industry but have neither the resources nor the public relations exposure to make it as important to the general public or public officials.

--- Skinner Linn

--- skinner02@sprynet.com

--- EarthLink: The #1 provider of the Real Internet.

23. From:Linn Skinner To: los.angeles@fbi.gov Sent: Tuesday, May 28, 2002 10:18 AM

Subject: Copyright infringement of needlework design

At the request of your office during our telephone conversation this morning I am forwarding a summary of the internet infringement difficulties facing the needlework design industry.

Over the past two years a ring of infringers has uploaded copyright protected materials has been uploaded to various clandestine groups by international users of the internet.

I and a group of designers have been struggling with notifying holders of rights so they can have materials removed under the DMCA. This has proved to be an impossible burden to me at this point. Our industry through the INRG has attempted to address the issue and raise funds to combat it. But they are hampered by the problem of having no access to clandestine groups. One Canadian designer has offered a "bounty" for reports of infringement and has had limited success in pursuing infringers by this means.

One civil suit has addressed the issue: DRG v. Brewster (USDC Oklahoma (western?)) I can provide the cite if you have difficulty finding it.

When designers became aware of the problem I felt it was necessary to gain access to the original groups formed online for the purpose of uploading scans of needlework designs. From the beginning of these groups it was necessary to prove one's willingness to infringe to gain access. I am an embroidery historian and have a large library of out of copyright books and used scans from them and of my own designs to join some of the early groups. I have managed to retain membership in the groups by creating a persona who seldom uploads but is old, infirm and ingratiating. I believe my current membership in infringing groups hovers around 60+ on MSN and Yahoo. Other designers have access to groups to which I have no entry.

I continue to speak on the issues of copyright infringement online using my real name as well. In July 2000 I was concerned that our industry was grappling with a problem not known to the public and we were not being taken seriously. At that time I contacted the technology writer at the LA Times, furnished her with my passwords to the groups then active and she wrote an article for the Times that was picked up by most of the major wires, CNN, etc. This didn't seem to make a dent in the problem. In June 2001 I felt our industry needed some hard statistics in order to assess the problem and that designers (many of them cottage industry and naive to the issues of copyright) needed some educational materials to help them cope with the problem of internet infringement of their designs. A small group of volunteers (designers and consumers) surveyed one infringing group and gathered data. This group was chosen because at the time it was still an open group on Yahoo, it had an average number of members for the time (200+) and was stable (active for nearly one year) and had

not been harassed by designers on the issues of copyright. These dedicated women looked at 35,000+ pages of messages and uploaded needlework designs, gathered the URLs for notification of rights holders and with the assistance of a Canadian IP attorney created a CD of educational materials on the issue for distribution to designers/publishers of needlework designs. The statistics and materials remain available at www.skinner Sisters.com/copyright

As designers have started demanding that materials be removed by service providers under the DMCA the groups have become more and more secretive. Within the past few days I have been contacted by the owner of a clandestine group who has "repented" and have been given possession of her identity and the group she owned on Yahoo. I cannot continue to be responsible for a group that fosters infringement but it is an ideal opportunity for a law enforcement/investigative agency to enter into active investigation by taking over the group. By virtue of suddenly becoming a list owner (or "list mom") I further gained access to a closed group whose membership is composed of nothing but uploading list owners.

I and my volunteers have consistently refused to upload infringed material but have occasionally uploaded designs provided by various designers so that we could maintain membership in groups. I have spent untold thousands of hours trying to cope with this situation and it is totally out of hand. We have seen groups grow from ranges of 200 members or so to a recent group that reached a membership of 1,500 for a time.

We are seeing infringement occur in new ways as technology becomes cheap and peer-to-peer file transfer more readily available. The infringers provide copies to each other by:

- Uploading entire needlework designs to websites or clandestine groups as message attachments, or graphics files
- Uploading covers of design booklets to groups or to photosites and then taking orders for transfer of the entire chart via e-mail
- Mailing CD's of designs to each other
- Peer-to-peer file transfer on instant messenger or file swapping services
- Maintenance of a server themselves and offering designs by ftp

These infringers include a broad spectrum of citizens including professionals, housewives, blue and white collar workers and one DAC who has used military arpanet to communicate with clandestine groups. They live in South America, the UK, Europe, Australia and other parts of the globe as well as the US

The infringers use the term "Troll" to describe designers who enter groups or who report them to holders of rights. I and another American designer who is now a resident of the UK are at the top of their "Troll List" as being the most active in putting an end to infringements.

To aid in your determination of whether this issue merits investigation, the cost of a hardback needlework book hovers around \$20-25 and the entire 100+ page book quite often is scanned and uploaded to one list and then the files are downloaded by members of that list and posted on 2-4 other groups. Individual leaflets run in the \$5-7 range. The damages are quite severe when it comes to

larger publishers such as Leisure Arts (a Southern Living Publishing company - a division of Time Warner-AOL) but these groups are hampered by the lack of access to the groups that are doing the uploading and I don't have time to provide them with all the instances of infringement. I am a struggling designer myself and work part time as a legal secretary to support my business. We need to simply put an end to it for once and for all. Yes I know people are going to continue to swap copies of needlework patterns but we certainly need to contain the practice.

I am providing you with my current IDs and passwords for groups so that you can take a look at the activity occurring. I will be going out of town to teach at a needlework consumer show on June 5 and I will (1) change the passwords on June 4 (2) will summarily close down the swapping group I inherited at that time (unless you are interested in taking responsibility for it). I ask that you not post messages on the groups or otherwise interfere with my membership in them (i.e. changing passwords, etc.) as I will continue to require access to them to check for my designs being uploaded. I do believe if you take a look at these groups you will be convinced that they are indeed a hotbed of infringement and that they merit investigation and enforcement of Title 17

YAHOO GROUPS

ID: crzystitchruth

PW: huntington

MSN GROUPS

ID: crzystitcher@springmail.com

PW: victoria

ID: crzystitcher@mindspring.com

PW: metropolitan

YAHOO ID OF INFRINGER WHICH I INHERITED

ID: theenie75

PW: victoria

I can be contacted at home at (323) 874-5136 but I screen calls because I do get nasty calls from infringers from time to time.

I can be contacted at work (I work part time) at (310) 277-2236

My home address is 1841 N. Fuller #208, Los Angeles 90046

My work address is 1925 Century Park East, Suite 2000, Los Angeles 90067

Thank you for any assistance you may be able to offer our industry. I myself have no economic damages but am personally offended by the problem and because I have possibly the best alias we have managed to develop have been caught up in spending far too much time trying to deal with the situation.

Linn Skinner

Skinner Sisters

24.

We would like to take this opportunity to introduce ourselves to the group. Monitoring your groups (see list below) has been an interesting research project but we are now moving to the next phase of our project, using the data collected by this monitoring to educate the consumers, designers and publishers of the international needlecraft industry.

1. Nos gustaría tener esta oportunidad para introducimos a todo el grupo. En el proceso de cuidando sus grupos (miren la lista abajo) sé a echo un proyecto de investigación interesante, pero ya nos estamos moviendo para la nueva parte de nuestro proyecto, usando la información colectada por medio de nuestra investigación para educar a nuestros consumidores, diseñadores, y publicadores de la Industria Internacional de Needlecraft.

Barbara Horton, Su Poole, Linn Skinner
crzstitcher, skinneristers, flagal, sumawr, stitchergal1, stitchinlady, smpoole53, (tbeenie75 May/June 2002 only)

A Fun Time, A Barbie Moment, Anything4Dolls, ATimeForChange, BarbieCrochet, Barbie_Fun, barbiepatterntradingpost, Canvas_Magique, Carrefourducanevasdeplastique, Cathie'sPCHeaven, Cathiespcheaven2, Catkins_Craft, Cateyes007, chickadee2, click In And Click Out Pattern Request, Craft_Magazines-List, Craftin_Korner, Crafting_Friends, CraftsOnLineAttachments, Crafty_Moments, CraftyAngels, Crochet4life, Crochet_A_Memory, CrochetBarbiePatterns, CrochetFamily, crochet-flowers, crochetsfun, crochet-lovers, Crochet_Patterns, crochetpatterns4all, cross stitch and needlecrafts, Cross Stitchin' Mama!!, Crosstitch exchange club, debspccorner, Doll4CrochetOnly, el rincon de los encajes, elMaravillosoMundoDelPuntoDeCruz, Everything Barbie 2, EverythingBarbie, Free Cross-stitch patterns, frogsRbeautiful, frogsRbeautiful2, GinasPlasticCanvasCorner, havingfunwithplasticcanvas, I-Love-Cross-Stitch-Swaps, ILuvPlasticCanvasCrafts, JennyM's Place, JnSBuddies, JoyablePatterns, Keep On Stitch'in Cross Stitch & Plastic Canvas, Kimko's PC N' Stuff, KnittingandCrochet, knittingkorner2, LazydaysPCClub, Letsallshareandhavefun, MagickaWorldOfBarbie, My_Group_J_n_V, MyStuffNSuch, Needle-Art, needlepals, Needle Work and More, Palguides, PatronesPuntodeCruz, Pattern_Sharers, PatternPiggiesHideaway, Patterns2002, PC Barbie Furniture, PCCHRISTMASFANTASY, PC R Us, PCC Tissue Box Covers & Others, pccraftingelite, ppersontherun2, pcorbeginners, PiggyParlor, PigsRPeople2, Plastic Canvas Leaflet List, Plastic Canvas Place, Plastic Canvas World, Plastic_Canvas_Anonymous, PlasticCanvasHeaven, plastic-canvas-lovers, plastic-canvas-lovers, PlasticCanvasPatternsToShare, PlasticCrossStitch, Precious_moments_patterns, Punto de cruz y cia, Pyxi's PC Pattern's, QueensHiveBuzz, Rainbowofcrafts, redwork_designs, Renee's Plastic canvas Site!, repostdepot, SadiesLadies, Stitchers R Us, Surprise-Adventures, swap_defenders, sweetpeaspcgroup, ThePlasticCanvasCreationsCommunity, TheYarnOverCrochetNetwork, TheBestBarbiePatterns4Trading, Todo punto de cruz, Troia Jones Family History Site, Troll_Collector, University Of Pattern Pirates (MSN), University Of Pattern Pirates (Yahoo), UOPDFP, UOPP, varietyneedcrafters, wwwcross-stitch, wendy'spccrafts, Witchy's Stitching Place, Yvette's Magical Poo Place, Yvonne's Favorite PC craft times

25.

In copy_rights@yahoogroups.com, "terrylowe17" <terrylowe17@y...> wrote:

I CAN NOT BELIEVE YOU PEOPLE. WHICH ONE OF YOU WALKED ON WATER FIRST , OR BETTER PUT LET HE WHO IS WITHOUT SIN CAST THE FIRST STONE. AND BY THE WAY LINN IF I'M NOT PUTTING MY COMAS IN THE RIGHT PLACE PLEASE LET ME

KNOW. YOU MUST HAVE WANTED TO BE IN THE F.B.I. OR WAS IT THE C.I.A. YOU SEND OUT SPIES LIKE UNDERCOVER AGENTS. WIRETAPING IS NEXT I GUESS. FIRST LET ME SAY TO VOODIDIT. YOU ARE A SNAKE IN THE GRASS. WHY DO'T YOU TALL ALL YOUR NEW FRIEDS HOW YOU WERE AS OF LAST WEEK THE MANAGER OF ONE THE DEVILS CHARTLIFTING CLUBS. AND FOR QUIT AWHILE. I THINK YOU NEED TO BE HONEST BEFORE YOU CLIMB UP ON THAT CROSS WITH THE OTHERS. BUT FROM WHAT I SEE THERE IS NOT MUCH MORE ROOM.YOU CAN SEND ALL THE LETTERS IN THE GROUPS YOU WANT. THE ONLY WAY YOU WILL SHUT THEM DOWN IS FOR YAHOO OR MSN TO DO IT. WHEN THEY DO WE WILL GO QUITLY. SO UNTIL THEN WHY DON'T YOU PEOPLE CLEAN UNDERYOUR OWN RUG AND QUIT TRYING TO LOOK UNDER OURS. I KNOW I WILL BE BANNED AFTER THIS SO I HAVE ONLY ONE THING TO SAY. I HOPE GOD BLESSES AND KEEPS ALL OF YOU WELL. THANKS FOR THE NICE LETTERS TERRY

6.

--- In copy_rights@y..., "aj67my" <aj67my@y...> wrote:
 > I do not want to learn about law, I am not a law student. Also I have more then a little bit of computer knowledge. I have written computer programs from scratch, I have learned C, Perl, Python, Qbasic, JavaScript, CGI, HTML, CSS, DHTML, SSI and soon I will be learning VisualBasic. Do not put down my computer knowledge. I have developed a help file that is being given to all new members of a plastic canvas group. I sugest you learn a little about computers before you go and make remarks like that. I am also developing some nice programs that will fix you people (ppl) once and for all. You might want to note that I am a young adult and not a teenager like you thought, also I was not asked to track down and kill your group, it was a choice I made on my own, one final note, stop harasing the members of the PC groups, they have no part in what I am doing. As well if you are not carefull on what you say you might very quickly learn what DoS stands for, and no it is not the same as DOS which means Disk Operating System

7.

--- In copy_rights@yahooogroups.com, "TROLLS_ARE_TROUBLE" <TROLLS_ARE_TROUBLE@P...> wrote:
 You know what I don't care if it was from a group or if Su did write it. LET ME TELL YOU WHAT....WHEN I BUY A BOOK IT IS MINE, AND I WILL DO WHAT I WANT WITH IT.SOMEONE FROM THE GROUPS DIED TODAY AND IT MADE ME REALIZE THAT IT'S NOT WORTH ARGUING WITH YOU OVER IT. BECAUSE NO MATTER WHAT ANYONE SAYS YOU PEOPLE THINK YOU ARE RIGHT ALL THE TIME. I HAVE BETTER THINGS IN LIFE TO DO.BUT DO REMEMBER I WILL SHARE MY BOOKS WITH WHO EVER I WANT. I WILL SCAN ANDSHARE. AND DON'T WORRY ABOUT UNSUBBING ME I'M LEAVING YOUR JERK OF A GROUP.IT'S A JOKE AND YOU WILL

NEVER GET IT STOPPED. YOU PEOPLE ARE HYPOCRITES AND
NEED TO GET A LIFE.....

8.

--- In copy_rights@yahoogroups.com, "shanara29" <shanara29@y...>

wrote:

I am a member of a number of groups that share patterns and fail to see what the problem is or where it's any of your business what we do. I have bought a number of patterns myself and then passed the pattern on to a neighbour or friend and fail to see the difference here. Are we supposed to buy them, make them and then burn the pattern book lest we all burn in hell. I think that you people are far worse than any pattern sharers out there. We don't go into groups and post viruses, scare the bejezes out of people or try to shut down groups. I am a single mom of 4 young children and hardly have the time or money to buy patterns anymore and therefore collect them online. I will continue to be an active member in my groups and may even look for a few more now that you've given me the names of a number of groups! If you continue to try and shut us down we will simply move our group elsewhere and make it private. So you see you aren't doing any good at all. LOSERS!

9.

--- In copy_rights@yahoogroups.com, "melinda" <sawyer_2001@s...>

wrote:

How many of you honestly think the the FBI are really that concerned about somebody copying a 50 cent pattern when you can go anywhere on the web and get music games software hell you can even get microsoft operating systems all for free and most come with serial numbers. why do you believe that it is your right to infringe on other people rights as it is a right to make one backup copy for your own use. And it is not against the law could you decide to place a copy on the web in a community where you can store your backups for later use. If you think the FBI are going to take time out of their busy schedules to drive 100 miles out of their way to arrest somebody for copying a 50 cent pattern then you all live in a big dream world. I sure the FBI would rather focus on bigger things like terrorism, murders, and bank robbers. When have you ever gone to an FBI web site and seen a picture of somebody wanted for copyright infringement at the top of their 10 most wanted list. last I checked it was still bin laden So like I said before maybe most of you should think of some better things to do with your time. Because if you decide to take legal actions against my community you will first get the case thrown out of court and second be sued for invasion of privacy and breaching a legal binding agreement. So in the future I would be very careful in what you do as it could be you that loses everything!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!
WC_and_KN

26. To: ray_carle@timeinc.com

Sent: Friday, April 12, 2002 12:22 PM

Subject: Infringing groups

Ray:

I am cutting back the time I spend on dealing with copyright issues and although I will continue to maintain my alias (which is one of the best around) I will merely scan digests of groups for my

designs and delete them from this point forward. I will no longer notify folks of infringements nor archive sites as evidence.

I did make an offer on the copywrongs group and will make it directly to you. If you want these digests and e-mails from the 60 or 80 groups I belong to, I will be glad to forward them to you before I delete them. You'll have to take them as a job lot however, no picking or choosing which ones you want. I don't have time for that and about the third time a get a bounced e-mail because of a full mailbox, the offer is rescinded.

Hope you have found the alias I gave you helpful and you are learning your way around the groups. I see House of White Birches is becoming active in having pages taken down on MSN groups under the DMCA.

Linn Skinner

27.

Oh i did forget it about it but kept a copy ... some how they get on the lists.. and i think if they get a name thru xpostings they can even hack into that group and get into the archives and bam.... there goes the list... you remember that we had a list mom locked out of her list.. i figure they will even pay a hacker to get to us... or informate.... needless to say i was just tell Silja that the 555 fantastic patterns book was the one i got that letter over... funny thing was i didnt even know til Silja sent that request what pattern it was... i never responed and let it lay.. i was wondering what pattern it was tho... well i babbled... on with the show hey .. i scanned a new pattern tonite... here it comes

Linda J

Mr. SMITH. Ms. Christensen.

**STATEMENT OF MAREN CHRISTENSEN, VICE PRESIDENT,
INTELLECTUAL PROPERTY COUNSEL, UNIVERSAL STUDIOS**

Ms. CHRISTENSEN. Thank you, Mr. Chairman. Mr. Chairman, Congressman Berman, Members of the Committee, it is a pleasure to appear before you today. My name is Maren Christensen. I am Senior Intellectual Property Counsel for Vivendi Universal entertainment. I appreciate the work that the Members of this Committee and your predecessors have done to protect the rights of creators and to foster an environment where companies like Universal Studios can invest in new creative works.

As this Committee knows, piracy is the single greatest threat to America's creative industries. We face huge amounts of piracy, both in the United States and abroad. To an increasing degree, online piracy has become more prevalent through peer-to-peer distribution systems where one illicit copy of a film can be made available almost instantaneously to millions of users around the globe.

Those who traffic in or use pirated materials erode the financial underpinnings of this uniquely creative, collaborative and capital-intensive process. They affect those in front of and behind the camera and threaten the future of popular entertainment, as the unfortunate reality is that some 80 percent of the films and television shows do not recoup their investment.

This is a hit-driven business where the successes have to pay for those that don't make it, and of course it is the hits that the pirates most often steal.

Mr. Chairman, I would like to relay a recent experience regarding a pirated film, and as this is still a pending live case, there is certain information I cannot discuss in open session. The following account mainly comes from the information made public by the U.S. Attorney's Office in its June 25 criminal information as well as from its press release.

On June 6, 2003, 2 weeks before the film "The Hulk" was scheduled to open in movie theaters, Universal's antipiracy team discovered that an incomplete work print of the film had been illegally uploaded onto the Internet. Having invested over a \$150 million to produce, market and distribute "The Hulk," we were extremely alarmed to find that this work print, with only an early version of the state-of-the-art computer graphics and an incomplete version of the musical score, had been stolen, posted to the Net and made available to PCs around the world. Within days, the original posting turned into tens of thousands of sources from which countless downloads could be made.

The threat to Universal and the film was obvious. People who watch a film for free do not have to go to the theater. Pirates who get a film for free can reproduce it in DVD format, translate it into any number of languages and sell it on street corners around the world for just a few dollars.

The fact that this was an unfinished version of the film also created an additional threat. As an industry we depend on the subjective reaction of individual consumers and critics and on positive word of mouth. It is critical that audiences see our films, particu-

larly films like “The Hulk,” where the visual effects and the music are so important in their final and ultimate form.

The studio has many external and internal procedures to protect a film during production, including physical and technological standards. Each work print of every film carries unique identifying characteristics to help us trace the source of any leak. Universal had supplied such a work print to an advertising agency in New York that we and other Hollywood studios have worked with many times over the years. The agency, like all other outside vendors, had committed to a strict set of security guidelines; but in spite of this agreement, an employee of the ad agency loaned the work print to someone who in turn loaned it to Mr. Kerry Gonzales.

Mr. Gonzales attempted to defeat the security markings embedded in the print. He obliterated some but not all of its unique markings. He then uploaded the digitized copy of the film to an Internet site hosted from the Netherlands, and soon it was available all over the Net.

Fortunately, we were able to recover identifying information from the Internet copy and work backward. Through the quick and aggressive action of the FBI’s Computer Hacking and Intellectual Property Squad and the U.S. Attorney’s Office, Mr. Gonzales was identified and found and pled guilty to felony copyright infringement. His sentencing is set for September, and he faces time in prison.

Mr. Chairman, we are deeply grateful to the FBI, the Justice Department and the Copyright Office. Their prompt action led to this unprecedented conviction. We applaud the New York U.S. Attorney’s Office for bringing this important criminal action. The entire copyright community welcomed the message that it sent to people who upload, download and trade movies on the Internet. The crime is not anonymous harmless fun. You will get caught, and you will be punished to the fullest extent of the law.

We commend you, Mr. Chairman, and the other Members of the Committee, for sending a strong message that theft, whether on or offline will not be tolerated.

Universal studios and the other members of the MPAA support H.R. 2517 because further measures to address the illegal distribution of copyrighted material on the Internet will foster legitimate Internet distribution and business models. H.R. 2517 focuses on two of the most basic elements of the effort to stop piracy—

Mr. SMITH. Ms. Christensen, I have to interrupt you. We are going to need to go vote, and perhaps we can pick up with your testimony on some of the questions to our—a little bit later on. But thank you for your testimony very much.

As I explained earlier, we will need to recess for about 40 minutes, and then we will reconvene at that time.

[Recess.]

[The prepared statement of Ms. Christensen follows:]

PREPARED STATEMENT OF MAREN CHRISTENSEN

Mr. Chairman, Congressman Berman, Members of the Committee, it is a pleasure to appear before you today. My name is Maren Christensen. I am Senior Intellectual Property Counsel for Vivendi Universal Entertainment. This is the first time that I have appeared before this Subcommittee—although I have followed its accomplishments for the past twenty years both in private practice and as in-house counsel

specializing in copyright law. I appreciate the work that the Members of this committee and your predecessors have done to protect the rights of creators and to foster an environment where companies like Universal Studios can invest in new and innovative audiovisual works. Your work has enabled American filmmakers to entertain the world.

Universal is proud of its recent Oscar winners such as *The Pianist*, *A Beautiful Mind* and *Gladiator*. This year we are enjoying great success with films like *Bruce Almighty* and TV programming including *American Dreams* and the shows within the Law and Order family. We are looking forward to the opening of *Seabiscuit* next week, and hope to have many more successful movies for years to come.

What is a time of great anticipation for us is also a time of some apprehension. Today, movie studios not only have to find an audience for their films; they also have to stop the pirates who would hijack our audiences using our own product.

As this Committee knows, piracy is the single greatest threat to America's creative industries. We face huge amounts of piracy both in the U.S. and abroad—traditional physical goods piracy where organized enterprises reproduce and distribute VHS tapes and DVDs, and digital piracy exacerbated by the wonders of the Internet. To an increasing degree, on-line piracy is accomplished through peer-to-peer distribution systems where one illicit copy of a film can be made available almost instantaneously to millions of users around the globe.

Those who traffic in or use pirated materials erode the financial underpinnings of this uniquely creative, collaborative and capital intensive process. Quite simply, producers cannot invest their capital if they cannot recoup their investment and make a profit. Tens of thousands of creative artists—most of whom work off camera and are by no means celebrities or household names—stand to lose their livelihoods, and movie fans stand to lose a major source of popular entertainment.

Despite the headlines, blockbusters are rare. We forget about the films that fail to find an audience or the TV shows that do not survive even one season. We are an optimistic community always looking for new ways to tell a story and enthrall audiences. But the unfortunate reality is that some 80% of the films and TV shows that we make do not recoup the money invested in production, marketing and distribution. This is a hit driven business where the successes have to pay for those that do not make it. This is not a problem for the pirates: they make money by stealing the hits and ignoring the misses—a great business model.

Technology has always presented us with enormous opportunities as well as risks and challenges. Anyone who has seen movies like *"The Hulk,"* or *"The Mummy"* knows how enthusiastically the motion picture industry has embraced technology. My colleagues at Universal work tirelessly to reap the benefits of digital technologies, but also to keep tech savvy pirates at bay. Thanks to the committed teams of professionals at the Justice Department, FBI, Copyright Office, Patent and Trademark Office, United States Trade Representative, Customs Service, Federal Communications Commission and other agencies, motion pictures will continue to be one of America's preeminent trade assets, employers and contributors to the GNP.

I have been asked to describe a recent example of the kinds of threats facing the industry, as well as to discuss H.R. 2517, legislation designed to help ensure that the law keeps up with technological developments and that law enforcement has the tools it needs to protect America's creators.

"THE HULK"

Mr. Chairman, the following account mainly comes from information made public by the U.S. Attorney's Office in its Criminal Information dated June 25 as well as its press release. As I mentioned to the subcommittee staff, there are some facts that I will not be able to reveal in this open session.

On June 6, 2003—two weeks before the film *"The Hulk"* was scheduled to open in movie theatres—a member of Universal's anti-piracy team discovered that an incomplete work print version of the film had been illegally uploaded onto the Internet.

The studio invested over \$150 million dollars to produce, market and distribute *"The Hulk."* That is not unusual for big summer films with expensive computer-generated graphics. But even films without special effects are expensive to make and release. Recent MPAA statistics indicate that the average—the average film released by a major American studio costs \$90 million—some \$60 million to make and another \$30 million to market and distribute.

With this kind of a capital investment you can imagine how alarmed we were to find that a "work print" of the Hulk with only an early version of the state-of-the-art computer graphics, and an incomplete version of the musical score—had been stolen, posted to the net and made available for downloading to PCs around the

world. Within days, the original posting turned into tens of thousands of sources from which countless numbers of downloads could be made. And within those same few days, street vendors all over the world were selling DVDs made from a download of this stolen work print. All of this occurred a week before the film was released in theaters.

The threat to Universal and the film was obvious. People who watch a film for free do not have to go to the theatre. Pirates who get a film for free can reproduce it in VHS and DVD, translate it into any number of languages, and sell it for a few dollars. The fact that this was an unfinished version of the film created an additional threat: In an industry that depends on the subjective reaction of individual consumers and critics and positive word of mouth, we never want people to see a film until it is in its final, best form, and particularly not a film like this for which the visual effects and the music are so important.

The studio takes many steps to protect its films. There are internal and external procedures, and we are constantly improving physical and technological safeguards. Each work print of every film carries unique identifying characteristics to help us trace the source of any leaks. Universal had supplied such a work print to an advertising agency in New York that we and other Hollywood studios have worked with many times. The agency, like all other outside vendors who work with early versions of films, had committed to a strict set of security guidelines. The agency had obligated itself to keep the print secure and not to permit anyone to make or distribute a copy. In spite of this agreement, an employee of the ad agency loaned the work print to someone, who in turn loaned it to Mr. Kerry Gonzalez.

Mr. Gonzalez used his home computer to make an unauthorized digital copy of the work print, and then ran a special program designed to defeat the security markings embedded in it. He was able to obliterate some, but not all, of the unique markings on the print. He uploaded the digitized copy of the film to an Internet website chat room hosted from the Netherlands. The site is popular among movie enthusiasts who routinely gather there to post and trade copies of bootleg movies. Soon it was available all over the Internet.

Fortunately, we were able to recover identifying information from the Internet copy and work backward. Through the quick and aggressive action of the FBI's Computer Hacking and Intellectual Property Squad and the U.S. Attorney's office, Mr. Gonzalez was identified and found, and pled guilty to felony copyright infringement [17 USC 506]. He will be sentenced on September 26, 2003. He faces a maximum sentence of three years in prison, and a fine of \$250,000.

Mr. Chairman, we are deeply grateful to the FBI and Justice Department—their prompt action led to this unprecedented conviction. We applaud the NY U.S. Attorney's Office for bringing this important criminal action against those who would demolish the creation and investment in a motion picture such as *The Hulk*. The entire copyright community welcomed the message that it sent to people who upload, download and trade movies on the Internet—the crime is not anonymous, harmless fun. You will get caught and you will be punished to the fullest extent of the law. As Chairman Smith said, “while ‘*The HULK*’ is a comic book hero known to millions, copyright pirates practice their illegal trade in relative anonymity. In this case the FBI brought the face of copyright piracy public, and for that they are to be commended.”

The truth is that more criminal actions like this are necessary in order to send the message that Internet theft will not be tolerated under the law. Had the Congress not authorized additional resources for this case, this investigation would have foundered. Had Members of this committee not encouraged law enforcement officials and copyright owners to prosecute and punish this kind of behavior, we would not be sending the strong anti-piracy message that we are able to send today.

H.R. 2517—THE PIRACY DETERRENCE AND EDUCATION ACT OF 2003

Universal Studios and the other members of the Motion Picture Association of America support H.R. 2517 because further measures to address the illegal distribution of copyrighted material on the Internet will foster legitimate Internet distribution and business models. H.R. 2517 focuses on two of the most basic elements of the effort to stop piracy—consumer education and deterrent penalties. If piracy is to be abated, consumers must know that theft of movies, sound recordings and other copyrighted works is wrong, and that there are real consequences to unauthorized reproduction and distribution.

The sponsors of H.R. 2517 correctly recognize that that more work needs to be done to protect America's creators. Had the facts of *The Hulk* theft taken a different twist or turn, this investigation could have ended quite differently.

Our company's experience indicates that the Justice Department still needs additional human and technical resources so that forensic investigations into the tools of the piracy trade can be completed promptly and comprehensively. H.R. 2517 allows for enhanced programs to deter computer users from committing act of copyright infringement. We particularly applaud the provision of the bill that assigns at least one agent to be responsible for investigating intellectual property crimes within the Department of Justice's Computer Crime and Intellectual Property Section.

Our company's experience also teaches that the law may need to be revised to recognize that some very valuable works may be stolen before the work is finished and registered at the Copyright Office. Under current law, prosecutors require not only that the registration process has been initiated by the filing of the application, but that the certificate has issued from the Copyright Office—something that ordinarily takes many months due to the volume of registrations at the Copyright Office. Although there is an expedited "special handling" procedure, even this requires 5–7 business days to obtain a certificate. As we found, in this age of pre-release Internet piracy of major motion pictures, this can be too long. While the swift action of the FBI and the federal prosecutors allowed them to identify and find the pirate very quickly, it was not possible to secure the plea until the prosecutor had the completed copyright registration in hand. Only due to the efforts of the Copyright Office and its staff were we able to get a registration certificate issued in time for the prosecutor to proceed.

We commend the sponsors of H.R. 2517 for providing that a copyright registration should not be necessary for instituting a criminal copyright action. In fact, requiring a registration is not practical today for criminal or civil infringement actions, particularly for pre-release cases. Usually in these cases the copyright owners have not yet filed their copyright registration applications because the films have not been completed or published. It is neither fair to the Copyright Office's staff (requiring extraordinary time and resources), nor necessary for the courts to require such registrations before commencing a case. The facts provided by the registration, such as copyrightability of the work or the identity of its owner, if challenged by a defendant, can be easily proven in court without a certificate. In short, requiring a registration before commencement of an action would not improve criminal (or civil) prosecutions or judicial efficiency and would not deter piracy. Delay while a registration certificate is obtained significantly diminishes the effectiveness of these cases, and is unnecessary.

This is not to say that registration itself, including the requirement of supplying a deposit copy for the Library of Congress, is unnecessary. It is simply a question of timing. There are many incentives for registration that will lead most copyright owners to register their works within three months of release whether or not it is a prerequisite for instituting a judicial proceeding. We would welcome the opportunity to explore with the Subcommittee ways in which the registration requirements can evolve to better meet the threat of Internet piracy.

There is no doubt that an effective government deterrence program, coupled with more prosecutions such as the one regarding "The Hulk," will be a tremendous help in the war on piracy. Law enforcement and private industry must use our collective efforts to make infringers of copyright understand that they are not anonymous and that they will be prosecuted.

For that reason, the educational provisions of H.R. 2517 stress the need to inform users of the potential serious risks they face from participating in peer-to-peer network activities. Many people do not understand that trafficking in copyrighted works on the Internet is a Federal crime, or appreciate the risks associated with the use of peer-to-peer (P2P) file sharing networks.

For example, studies and recent congressional hearings have highlighted that many users of P2P networks have no idea that they are not only sharing music and movies, they are frequently sharing their entire C drive. In many cases, a P2P program installed on your computer can make all your files available to other P2P users. If your son or daughter downloads music through KaZaA during the afternoon, the information you work on at night—private tax returns, medical records, financial portfolios and private communications—may also be available to other P2P users on the network. Furthermore, P2P network use creates significant exposure to viruses and other security threats.

Fortunately, research indicates that consumers may change their behavior with regard to Internet theft if they are warned about legal action and if they perceive a risk of being caught. According to a recent nationwide survey conducted by Edison Media Research, 33% of downloaders said they would disable their file sharing software if they received a pop-up message warning they are at risk for legal penalties for downloading from file-sharing services. The educational programs established

under Section 5 of H.R. 2517 will help to accomplish the critical task of alerting users about the dangers they face from participating on P2P networks.

Finally, by facilitating coordination among law enforcement agencies and removing procedural barriers to prosecution, H.R. 2517 will stimulate greater law enforcement activity against pirates and increase their effectiveness.

Today the interests of honest consumers, as well as the livelihood of thousands of hard working artists, crafts persons and others employed in the creative industries are being threatened by a relatively few malicious, ignorant or uncaring people. H.R. 2517 will help inform these people that piracy is wrong, and where education is not sufficient, it will impose consequences in response to their illegal acts. It is a good measure that should become law.

I thank you Mr. Chairman for this opportunity to testify before the Subcommittee today on this thoughtful legislation. I look forward to discussing these important issues in greater detail.

Mr. SMITH. The Subcommittee will reconvene. I would like to thank our witnesses for their patience. Obviously the votes were unavoidable, but we appreciate your understanding that.

Let me direct my first question to Ms. Christensen. And Ms. Monroe, we are going to get to you, working this way, and give you a chance to respond to some of the other answers because I will be asking a lot of them about law enforcement.

Ms. Christensen you described the successful prosecution in "The Hulk" case. Obviously that is something that you would like to see more of. What was it, in your opinion, that was done by the Department of Justice that helped you? What can we expect to see more of, given your experience?

Ms. CHRISTENSEN. I think one of the things that made it right is that we, through our internal procedures, were able to track the source of the leak, and we had people who got on it right away at the studio. And when they found it, it was sort of a code blue; in the case of "Hulk," a code green perhaps, and everybody really went into action. We were very very serious about finding this person and we were fortunate enough that the FBI—we contacted the FBI right away and they were very serious about helping us. And we were able to turn over a certain amount of evidence to the FBI through our own efforts and they really ran with it.

Mr. SMITH. It just seems to me—and that is interesting to hear, because it seems to me it was a combination of your efforts and the FBI efforts that led to this prosecution, and maybe that says something about mutual effort in the future. But it is perhaps likely that the law enforcement officials would not have been so interested had you not been able to get them the information that they needed or that attracted their interest or whatever.

Ms. CHRISTENSEN. Well, it is hard for me to speak for the FBI.

Mr. SMITH. I don't want you to, because we have a witness from the FBI and I will ask her.

Ms. CHRISTENSEN. They can do that.

Mr. SMITH. I will check with her in a second. Thank you for that answer.

Ms. Skinner and Mr. Trust, both of you have had experiences dealing with law enforcement officials in regard to copyright infringement. What was your experience, briefly, in your dealings? Ms. Skinner, why don't you go first and then we will go to Mr. Trust.

Ms. SKINNER. Not greatly favorable at this point, although I am feeling that even this hearing will bring better rapport in that re-

gard. I have reported our problems to my L.A. Office of the FBI in 2002 and got no response from them.

Mr. SMITH. Okay. Mr. Trust.

Mr. TRUST. I think, Chairman, it's safe to say that photographers generally feel so hopeless, in some ways disenfranchised, that truthfully there is—there is very little that goes on. That is not to say law enforcement hasn't been helpful. They have been, and I am sure that they continue to be helpful. But photographers don't register their works for the most part because they just find it to be too difficult of a process. And then once—even those who do register their work, they just find it almost impossible to do anything about someone stealing a photograph, that it drops basically right there. So it is really a—in some ways, just a very hopeless sort of mentality for professional photographers.

Mr. SMITH. And frankly, the law enforcement personnel, they have to pick and choose and set priorities, and not every case of copyright infringement can be prosecuted, necessarily.

But still I think, Ms. Monroe, and this leads to couple of questions for you, I think it is safe to say that almost everyone agrees that we expect law enforcement officials, FBI, Department of Justice and others, to do more than they have been doing and to do a better job of enforcement than they have been doing. In regard to "The Hulk" case, is that the first time that there has been a prosecution of a pre-release piracy, to your knowledge?

Ms. MONROE. To my knowledge, yes.

Mr. SMITH. Okay. The reason I am asking is quite obvious, and that is why don't we prosecute more often? Why don't we prosecute more examples of infringement?

Ms. MONROE. Well, yes, sir. To indicate how seriously the FBI is taking this crime problem, it was in June of 2002 that the Director did create our Cyber Crime Division, so we are sort of in the embryonic stages, if you will, with this whole cyber umbrella, and we do take that very seriously.

And part of our Cyber Crime, our criminal branch—we have two branches, which is Computer Intrusion is number one, which that deals with our national security. The other part of this is our Cyber Crime, which is criminal violations. And our number one criminal violation within that section is copyright violations, intellectual property rights.

Mr. SMITH. Would you expect—would you reassure us and tell us that in the future you would expect to see many more prosecutions of piracy?

Ms. MONROE. Yes, definitely. I can't, of course, attach a number to that, but that is what division is about, and creating the section. We have a unit called the Public and Private Alliance, which is dealing with private industry, and that is what the section, the unit, will be doing, is reaching out and working with partnering with private industry.

Mr. SMITH. Okay. Thank you, Ms. Monroe.

The gentleman from California, Mr. Berman, is recognized for his questions.

Mr. BERMAN. Well, thank you, Mr. Chairman.

In H.R. 2517, Ms. Monroe, one of the provisions of the bill relates to eliminating the registration requirements. There are some peo-

ple who think that the registration requirement now only applies to civil actions on copyright infringement and that there is no obligation before criminal prosecution. Are you familiar with this issue and do you have an opinion on that?

Ms. MONROE. Excuse me just a moment. The element of the writ is that there has to be a valid U.S. Copyright for a criminal violation.

Mr. BERMAN. And you could have a valid U.S. copyright without a registration.

Ms. MONROE. While pending, there can be a valid U.S. copyright.

Mr. BERMAN. In other words, there has to be an application for registration and—

Ms. MONROE. Correct.

Mr. BERMAN. All right. And then on section 7, infringement warning notice, Ms. Christensen, how do you—this will direct the Attorney General to provide these warning notices? Since we are authorizing and, in fact, directing the FBI, who—does the motion picture company for instance, now, or entertainment company put out these warnings, under what authority?

Ms. CHRISTENSEN. My understanding of that, Congressman, is that there is a—has been an agreement in place for many years between the FBI and the Motion Picture Association which allows us to use an FBI warning at the—at least at the opening of the VHS and the DVD. Maybe it allows other things.

Mr. BERMAN. All right. Now, turning to a provision in this bill that Mr. Conyers and I introduced, the single upload provision, it provides, again, that the single upload of a copyrighted work to a publicly accessible computer network meets the copy and value thresholds for a felony. I am curious about your opinion on whether this will be helpful in combatting piracy.

Ms. CHRISTENSEN. Congressman, we certainly welcome any tools that will help us in protecting against the illegal trafficking in our works. Clearly, the uploading, if it were to the Internet where it is made available for hundreds of thousands, if not millions, of copies to be made, creates a situation where the valuation exceeds the felony threshold. On the other hand, the fact that it is so unique to find a prosecution such as ours, even though so many pre-release films are all over the Net, means that a clarification along these lines would be helpful.

Mr. BERMAN. Thank you.

Ms. Skinner, you touched on—you may have touched on this issue in your testimony, but the infringers that you have spoken about, the ones that are writing these nasty e-mails all the time, the boldness suggests that they have no fear of civil liability. I am curious about your views about their fears of private actions and the extent to which anything less than criminal prosecution will end these practices.

Ms. SKINNER. I think their lack of fear is well founded. We have had one civil case brought that was settled out of court. And I have heard from them consistently, We will stop this when the cop is at the door.

Mr. BERMAN. And one last question on this round for Ms. Monroe. The issue of false domain name registration information, WHOIS data, we know from previous hearings that we have had,

that law enforcement investigators frequently use WHOIS data and that false WHOIS data substantially impairs law enforcement investigation. Would increased accuracy and completeness of the WHOIS database be helpful to FBI investigations of cyber crime?

Ms. MONROE. Yes, it would be, sir.

Mr. BERMAN. Okay. Thank you very much, Mr. Chairman.

Mr. SMITH. Thank you, Mr. Berman.

The gentleman from Florida, Mr. Keller, is recognized for his questioning.

Mr. KELLER. Thank you, Mr. Chairman.

Ms. Monroe, can you tell us a little bit more about what the FBI is doing to make it easier for the copyright owners to use that FBI seal to let online pirates know that what they are about to do will cause them to suffer some—or make them subject to penalties?

Ms. MONROE. Yes. The FBI is combatting the problem of intellectual property rights in kind of a three-pronged approach, and that is through investigation, education and training. And what we are doing within the education realm is we are formulating a letter to relate to the general public the dangers of peer-to-peer technology. And this letter also informs individuals of the illegality of trading in copyrighted material, whether it be music, movies, software. This letter will be posted on the FBI Web site and it is also going to be made available to private industry to include in any publication that they will have on the Internet.

Mr. KELLER. What about that seal? Aren't these folks really looking for the use of the seal, just like if you rent a movie down at Blockbuster, the seal comes up showing that there are penalties for, you know, making copies of this movie? Aren't they looking for some sort of protection like that and they want to use your seal?

Ms. MONROE. Yes. We are working on that direct issue with them and coming up with a memo of understanding for that usage.

Mr. KELLER. Okay. Let me walk you through a hypothetical and ask how the FBI would be involved. Next week, for example, a major movie called "Sea Biscuit" is going to be opening up by Universal, I think. Let's say that today it was posted on the Internet somehow, that an advance copy got out similar to what happened with "The Hulk" movie, and that the folks down at Universal Studios in Orlando, Florida in my district found out about it through their own internal investigation. What would be their procedure for dealing with the FBI? Would they contact the Orlando FBI office, or is there some specialized FBI unit, some other location they would contact?

Ms. MONROE. If this was originating in the Universal Studios in Orlando, they could contact the—Orlando is one of our resident agencies out of the Tampa office. They would contact the Tampa office.

Mr. KELLER. I am wondering if there should be some sort of like an online intellectual property SWAT team in place that people like that could contact if they know that there is an imminent uploading of their movies, some group of FBI officials somewhere that this is their expertise, rather than some generic agent in Tampa.

Ms. MONROE. To address that, we actually—we are working on several things within the Cyber Division to have some uniformity. But at this point what we have in each one of our field divisions

are agents that are specifically trained in cyber matters, so they do have the knowledge, the intake knowledge as to how to work these cases.

Mr. KELLER. So there would be someone in every field division that has that expertise?

Ms. MONROE. Yes.

Mr. KELLER. Okay. And they would handle it there. And then let's say they collect the evidence from someone like Universal, then they would then turn over it to the local prosecutor for the Middle District of Florida.

Ms. MONROE. It is basically situational, depending on how large or voluminous of a case this would be. We also have regional offices where we have additional agents if we needed more manpower resources on this, that they could assist in that office and it could be handled that way. So it kind of depends situationally how large of a case that we are talking about.

Mr. KELLER. Okay. A couple of months ago we had Attorney General Ashcroft here, and I asked him if there had ever, at that time, been a single prosecution of an Internet pirate for theft of music or movies over the Internet based on the peer-to-peer file-sharing. And he admitted that there had not been, although there are other intellectual property crime victories that the FBI and Attorney General's Office have had, but not in that area. Since then we have "The Hulk" prosecution, which is worthy of merit and praise. Do you see there the potential to be additional prosecutions in the future for these type of crimes now that we have some precedent for this?

Ms. MONROE. Yes, I do. Definitely. And as I indicated, the FBI is very—the emphasis is working with private industry on these specific issues.

Mr. KELLER. Okay. Thank you Ms. Monroe. And Mr. Chairman, I yield back the balance of my time.

Mr. SMITH. Thank you, Mr. Keller. The Committee has also received a letter from Marybeth Peters, Register of Copyrights; and, without objection, that will be made a part of the record. We will go now to the gentleman from Virginia, Mr. Boucher, for his questions.

[The material referred to follows:]



The Register of Copyrights
of the
United States of America

Library of Congress
Department 17
Washington, D.C. 20540

(202) 707-8350

July 16, 2003

Dear Chairman Smith:

I am writing regarding H.R. 2517, the Piracy Deterrence and Education Act of 2003, which is the subject of a subcommittee hearing tomorrow. The Copyright Office is pleased that you are taking up the very important issues of enforcement of copyright laws and the education of the public about copyright law. We agree that these are matters of urgent importance today, particularly in the context of the Internet, and we appreciate your leadership and willingness to take action in these areas of copyright law.

We have two suggested changes in H.R. 2517 that we propose for consideration. First, while the Office supports Sections 3 through 5 of the Bill as means to further enhance criminal enforcement of copyright and deter infringing activity, we believe that the programs administered by the FBI and the Department of Justice established under these sections regarding copyright enforcement and education would be improved by adding a provision for consultation with the Copyright Office. Part of the Copyright Office's traditional role and statutory mandate is to assist other federal agencies on matters related to copyright. Our track record in performing this role demonstrates that we have a wealth of expertise to offer in connection with the programs proposed in this Bill. Such activities comprise an integral part of the Copyright Office's duties.¹

Specifically, I request that both Sections 3 (Deterrence and Coordination) and 5 (Education Program) of the Bill be amended to include a requirement that the FBI and Attorney General, respectively, coordinate and consult with the Copyright Office in carrying out their obligations under those sections. The FBI should employ the expertise of the Copyright Office in developing its plan to deter members of the public from committing acts of copyright infringement; and the U.S. Attorney General should work with the Copyright Office in developing the copyright-related portions of the Internet Use Education Program.

¹ Among its enumerated functions, the Copyright Office is mandated to "provide information and assistance to Federal departments and agencies and the Judiciary on national and international issues relating to copyright ..." as well as perform "such other functions as Congress may direct, or as may be appropriate in furtherance of the functions and duties set out in this title [17]." 17 U.S.C. § 701(b)(2), (5).

The Honorable Lamar Smith

2

July 16, 2003

Second, it is our view that while the concerns addressed in Section 6 – which would prohibit the Bureau of Customs and Border Enforcement (“Customs”) from requiring copyright registration as a condition to seizing infringing goods – do merit attention, alternative solutions are available that can adequately address these concerns without resort to a wholesale prohibition on Customs’ ability to require copyright registration. As currently drafted, Section 6 could complicate Customs’ enforcement efforts, as well as undermine incentives to register copyrights with the Copyright Office.

Under current copyright law, Customs is neither required nor prohibited from conditioning the exclusion of imported goods on copyright registration. Section 603(b)(2) of the Copyright Act does, however, envision and expressly permits Customs to require some form of proof of ownership of the copyrighted work and of infringement. Requiring copyright registration is one the simplest and most efficient forms of obtaining this proof since the mechanism is already in place. Moreover, because registration is required to bring a lawsuit and to obtain statutory damages, most copyright owners do not view the need to furnish Customs with a certificate of registration as an excessive burden. Even more importantly, copyright registration is evidence of copyrightability. The Copyright Office reviews every work submitted to it for registration to determine whether the work meets the standards for originality and non-functionality necessary to merit copyright protection. For certain types of works, many of which Customs deals with on a regular basis, such as textiles, toys, jewelry and other three-dimensional objects, the copyrightability of the work is not always self-evident. Customs possesses neither the expertise nor the resources to make these types of substantive copyright decisions.

As we read Section 6 of H.R. 2517, it amends Section 603 of the Copyright Act to prohibit Customs from requiring copyright registration and recordation with Customs as conditions to Customs’ seizure of infringing imported articles. I urge you to reconsider the advisability of such an amendment, which would work a dramatic change in a system that has functioned reasonably well. Under Customs’ current regulations, copyright registration of a work is a prerequisite to recordation with Customs, and recordation is a condition to Customs’ seizure of infringing articles. The Copyright Office believes that it is important to retain Customs’ ability to rely on the copyright registration system, as it provides an incentive to register works with the Copyright Office and also serves as an important means through which copyrightability and copyright ownership can be verified by Customs.

We do recognize that some copyright owners, most notably in the recording industry, have raised concerns regarding their inability to obtain copyright registration for works in time to prevent the importation of pirated goods. Although the Copyright Office has a procedure for expedited registration (within five days or less) in exigent circumstances, it can take some months to issue a copyright registration under normal procedures. For certain types of works, such as sound recordings and films, the period immediately following release is generally the period of highest piracy, as well as sales. By the time a copyright registration is obtained the most active period of piracy may have occurred. Moreover, the copyright owner may not know in advance exactly what titles are on a particular shipment known to contain pirated sound

The Honorable Lamar Smith

3

July 16, 2003

recordings. As such, the copyright owner may not even know what titles to register – even if it is willing to incur the additional fees to register on an expedited basis.

It is our understanding that both copyright owners and Customs would be amenable to a regulatory solution. One possibility would be for Customs to consider permitting copyright owners of certain categories of works, for which copyrightability is rarely at issue, to make an initial recordation with Customs based on a filed, pending application for copyright registration rather than the certificate of registration. We have discussed these and other alternatives with Customs and believe that the regulatory process may be the most appropriate way to arrive at a solution with respect to works of domestic origin.

We would not object to retaining a modified version of Section 6, however, that eliminates Customs' registration requirement solely with respect to foreign works. Section 411 of the Copyright Act requires registration prior to the commencement of an action for infringement only of United States works. Eliminating Customs' registration requirement for non-domestic works would bring it into conformity with the parallel provisions of Section 411 and would reduce the additional burden on foreign copyright owners who are less likely to register with the U.S. Copyright Office as a matter of course. Alternative forms of evidence, such as a sworn affidavit, could be required of foreign copyright owners, in lieu of a copyright registration. Therefore, I request that Section 6 be amended to apply only to foreign works, and that alternative means of addressing concerns raised concerning border protection for domestic works, like those mentioned above, be pursued.

I appreciate your consideration of these proposed changes to H.R. 2517, and request that this letter be included in the record of the hearing. I would be pleased to discuss these matters with you further.

Yours truly,



Marybeth Peters
Register of Copyrights

Copies to:

The Honorable Howard L. Berman
The Honorable John Conyers, Jr.

The Honorable Lamar Smith
Subcommittee on Courts, the Internet,
and Intellectual Property
B-351A Rayburn House Office Building
Washington, DC 20515

Mr. BOUCHER. Well, I thank you very much, Mr. Chairman. I want to join with you in welcoming these witnesses and thanking them for their testimony here today. I share the concern of everyone who has spoken here about the inappropriate use of peer-to-peer file-sharing, the use of it for the commission of piracy across the Internet, and I also think that more should be done in order to stem that use.

I want to commend the Department of Justice for the recent prosecution of "The Hulk" incident and I was glad to hear Ms. Monroe say that her office, the Department of Justice, generally does intend to step up its effort for law enforcement in this area. I think that is very appropriate.

Having said that, I have some concerns with this bill, and I want to highlight just a couple of the areas that give me concern in the brief time that I have available, and ask these witnesses what their reaction to these problems—that to me are apparent—is.

First of all, section 3 of the bill directs the FBI to deter the obtaining by the public of unauthorized copies of copyrighted works from the Internet. I think that is a quote from the Director. Can anyone on the panel tell me what "unauthorized" means in this context? Does it mean that the consent of the owner of the copyright has not been obtained for the download? Or is "unauthorized" in this context a synonym for unlawful? And there is a very substantial difference between the two? Would anyone like to venture an opinion? Ms. Christensen?

Ms. CHRISTENSEN. Congressman Boucher, I notice that section 3 begins with the language that the Director of the Federal Bureau of Investigation shall, one, develop a program to deter members of the public from committing acts of copyright infringement. Copyright infringement would, of course, contain all of the normal and usual defenses that any copyright infringement violation would have attached to it, and there is no reason I can see to believe that it would be any different with regard to this bill.

Mr. BOUCHER. So when the word "unauthorized" is used here, your interpretation is that it really means unlawful, meaning that the download does constitute an infringement; is that correct?

Ms. CHRISTENSEN. I think the download has to constitute an infringement.

Mr. BOUCHER. Okay. So if someone is downloading for the exercise, for example, of their fair-use rights to excerpt a section from something that they see on the Internet that is copyrighted, that would not be conduct that the FBI should be deterring. That is unauthorized in the sense that the copyright owner has not given his direct permission to download that excerpt. But your opinion would be that in that particular instance, the FBI should not deter. Is that stated correctly? A simple answer is needed here, just a sort of a yes or no. I think I have fairly summarized what you said. Is that correct?

Ms. CHRISTENSEN. Well, except that I would like to add that in the context of this bill, when you are talking about file-trading on a public peer-to-peer network, you are almost never going to find an instance in which it is fair use to upload somebody's property onto that network. If you are talking about file-sharing—

Mr. BOUCHER. I am going to reclaim my time because it is limited. I am not suggesting that we alter the definition of "fair use" here or that we expand it into new areas. What I am saying is that when something is unequivocally a fair-use application, it would not be your intent that this language be used in order to deter the downloading of that material; is that correct?

Ms. CHRISTENSEN. That is correct. But I don't think you are going to find a fair use—

Mr. BOUCHER. Now let me take you one step further and just say that with that understanding, would you agree that we should change the language here from "unauthorized," which is ambiguous in its interpretation, at least potentially in the minds of some, to the simple word "unlawful?"

Ms. CHRISTENSEN. I don't think it is necessary, Congressman.

Mr. BOUCHER. Okay. Let me move to another area because my time is limited. I am concerned also by the notion that we are going to direct the Federal Bureau of Investigation to launch a public education campaign about the niceties of copyright law.

And I am just wondering, and I would ask Ms. Monroe this question: Will the agents or the individuals at the Bureau responsible for fashioning this public education campaign include material on the fair-use rights of consumers and devote substantial effort and volume of the communication to that to make sure that those rights are also fairly communicated?

Ms. MONROE. Well, at this point I am not permitted to testify on the merits of any legislation.

Mr. BOUCHER. All right. Thank you.

I just have one other question of you, and that is this. I see no authorization in this legislation for additional money, and so presumably this bill anticipates that you will carry out the new responsibilities of mounting an education campaign, assigning agents under section 4, mounting this deterrence program under section 3, with your existing resources and existing personnel. Do you have sufficient existing resources and personnel to undertake all of these responsibilities without any new dollars from the Congress?

Ms. MONROE. Once again, I am not able to—

Mr. BOUCHER. Thank you very much, Ms. Monroe.

Thank you, Mr. Chairman.

Mr. SMITH. Thank you, Mr. Boucher.

The gentleman from Florida, Mr. Wexler, is recognized for his questions.

Mr. WEXLER. Thank you, Mr. Chairman. I first would like to thank you, Mr. Chairman, and Mr. Berman, for both of your tireless campaigns in regard to this issue, in regard to protection of intellectual property. And it is not often I think that—I will speak for myself—that we get an opportunity to applaud the FBI for what seemingly is a first-case very aggressive use of law enforcement that has resulted in a very positive result. And I, from my perspective if nothing else, just wanted to say tremendous applause to the FBI for the effort that was brought forth in "The Hulk" case.

And I think the ramifications of the FBI's actions are much greater than simply the legal ramifications. In fact, if you are talking about the education benefits, as a result of the FBI's reaction, you have to really look no further than the editorial in "Ain't it

Cool News,” which ordinarily, as I understand it, wouldn’t necessarily be a friendly venue for what people would view as being intellectual property rights. But because of the manner in which the FBI went about its business protecting intellectual property, we now I think, I hope, see a discussion occurring within the community in relation specifically, I think, to some of the concerns that Mr. Boucher raised, where even those people who ordinarily may not view the protection of intellectual property as might Universal, people are beginning to reexamine what intellectual property theft really means to society at large and not just in economic terms and not just in legal terms. And I wanted to applaud the FBI for that.

Having had the experience of that case, I would be curious if Ms. Monroe could share with us how the FBI might recommend this Committee further the efforts of the FBI in a legitimate way in terms of doing what they did with—I guess my question is, Do you have all the tools that you need legally to do, in fact, what you did with “The Hulk”? But anticipating what will be coming in the future, in terms of the greater use of technology, in the effort to steal intellectual property, in the effort to go after people who will be uploading, are there recommendations that you could make that this Subcommittee might consider so as to make the ability of the FBI greater in terms of preventing this kind of theft in the future?

Ms. MONROE. I would be willing at a later date to give a further briefing on that. But one thing I know, we would have to have more of our personnel to be trained in these areas to address this.

Mr. WEXLER. When you say “more personnel trained,” do you mean the prosecutors, or are you talking about the people investigating or just generally?

Ms. MONROE. I think in general, but I am specifically talking about investigators.

Mr. WEXLER. Okay. If I could to Ms. Christensen, having gone through the experience from the person having—or the company having their property rights violated, are there any suggestions that you might provide to this Committee that we specifically should provide to enhance the ability both of companies like your own to respond and the ability of companies like your own to interact with the FBI that may be the rights that you don’t already have?

Ms. CHRISTENSEN. I think one of the important issues is the issue that has already been touched upon and that is the registration. It used to be that people couldn’t get their hands on a motion picture until it had been released and by that time it had been registered. Now, as we see, they can get their hands on things far before they are registered, because they are not ready to be registered at that point. They are not finished. And I think that is true both in the criminal context and in the civil context.

So I applaud that part of the statute with regard to criminal, and would like to have it considered even with regard to civil. I don’t, by the way, I don’t mean to be misunderstood in thinking that registration isn’t important. We register all of our works, and we will continue to register all of our works for other advantages that registration gives us, whether or not they had to be registered in order for a proceeding to begin.

Mr. WEXLER. Thank you.

Mr. SMITH. Thank you, Mr. Wexler.

And let me say to the witnesses that if you have additional comments that you want to make to respond to questions that have been asked today, you are welcome to submit that to us and we will make those a part of the record.

Thank you all for your testimony. It has been very interesting and I have to say to you all that we—oh, Mr. Weiner has returned.

Pardon me. The gentleman from New York, Mr. Weiner, is recognized for his questions.

Mr. WEINER. Thank you, Mr. Chairman. I will take the hint and be brief. I just think that in fact, what is noteworthy about the prosecution of this whole case is that it is noteworthy at all. And I think that Mr. Ashcroft, in response to questions that I put to him at our last hearing, and Mr. Keller did, frankly did not give a great indication that this was a very high priority.

Let me ask you, Ms. Monroe, if we right now put down a computer, connected to the Internet in front of you, how long do you think it would take for you to find an illegally pirated motion picture?

Ms. MONROE. Me personally, or one of my staff?

Mr. WEINER. Well, hopefully—

Ms. MONROE. Not very long, to answer you seriously. Not very long.

Mr. WEINER. And if you were to discover that, putting aside the leg work of the industry, I mean, would there be anything—would you fire off an e-mail to the person, telling—saying, you know, this is the FBI, you are doing something illegal? Would you say this clearly is a crime? Let's try to sort this out?

I mean, is there—you know, this was clearly a case that Paramount broke and they brought it to you all wrapped and bundled.

Ms. CHRISTENSEN. That would be Universal.

Mr. WEINER. I am sorry. Aren't you just one monolithic kind of—Universal. This is a case that Universal brought kind of packaged, and it was someone who with the technology developed by the industry was able to track it down. Isn't this—I mean, why don't we have more of these cases when it is just so rampant on the Internet?

Putting aside the international needlepoint issue also that has been called to our attention, why is it that the fact that there was a prosecution supposed to give us such great—I mean, why are we supposed to be here cheering so loud? It is amazing that there aren't—you could literally, if you wanted to, probably initiate another one every single day, quite easily.

Ms. MONROE. We do currently have undercover operations that are addressing this specifically that will be prosecuted.

Mr. WEINER. Okay. Is there any effort made, when these things are discovered by your team or anyone else, to do some kind of notice to the people who are selling them or sharing them that this is illegal?

Ms. MONROE. That is what we are working on currently with private industry and with our own agency.

Mr. WEINER. On having a seal for the industry to do. I am asking—I guess my frustration here is, frankly, there is absolutely no deterrent value right now to the effort of law enforcement. I think

Ms. Skinner alluded to it. I mean, you can just intuitively—we have laptops here that might be on “Live Fire” or something. You could probably be doing it right now, be downloading a movie. I mean, there is really just no—there is no disincentive, because the Government seems to not be taking this very seriously.

Can you give me just numerically, generally, if you had to say, since there are thousands of these things that go on every day, are there dozens of prosecutions, dozens of investigations going on, hundreds, thousands? I mean, give me a sense for how likely it is that someone who is currently uploading a stolen print of Sea Biscuit, that they are going to get caught. I mean, is it—are there that many investigations going on right now?

Ms. MONROE. We address all the investigations that we are capable of investigating with the manpower resources that we have. But we do take this extremely seriously, and like I had mentioned previously, that is why we have created the Cyber Division to address these instances in each one of our field offices.

Mr. WEINER. Okay. Thank you.

Mr. SMITH. Thank you, Mr. Weiner.

Let me make sure no other Members have arrived. And if not, I can thank our witnesses again for their testimony.

I started to say a minute ago that we expect to mark up this bill next week, and so your testimony is timely and we will take to heart suggestions that you have made and suggestions that we have received from others as well.

Thank you again. And we stand adjourned.

[Whereupon, at 3:10 p.m., the Subcommittee was adjourned.]

A P P E N D I X

MATERIAL SUBMITTED FOR THE HEARING RECORD

PREPARED STATEMENT OF THE HONORABLE BOB GOODLATTE, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF VIRGINIA

Thank you, Mr. Chairman, for holding this hearing on this important legislation to combat copyright piracy.

Article I Section 8 of our Constitution lays the framework for our nation's copyright and patent laws. It grants Congress the power to award inventors and creators, for limited amounts of time, exclusive rights to their inventions and works. The Framers realized that this type of incentive was crucial to ensure that America would become the world's leader in innovation and creativity.

These incentives are just as important today as they were at the founding of our country. As we continue our journey into the digital age, we must be sure to continue to reward our innovators and creators with the exclusive rights to their works for limited periods of time. This incentive is still necessary to maintain America's position as the world leader in innovation.

However, the proliferation of copyright piracy in America is growing and is threatening to undermine the very copyright protections the Framers envisioned.

One area that is of particular concern is piracy via the Internet and peer-to-peer networks. When used properly, the Internet and peer-to-peer networks can provide users with incredible access to vast amounts of information in the public domain. When used improperly, they can be used as a tool by millions to steal music, movies and other copyrighted works. Thieves can easily abuse the access that the Internet provides to such vast amounts of copyrighted material to commit the kind of widespread theft that could potentially devastate huge sectors of our economy and ruin the Constitutional incentives for innovators to create new works and products.

Efforts must begin now to deter these thefts and to educate the public about the repercussions of copyright theft. Copyright owners are beginning to step up efforts to enforce their rights by deciding to bring actions against individuals for copyright infringement. While these aggressive tactics may help, any attempt to end widespread copyright theft must include equipping federal law enforcement with the tools they need to prosecute these criminal acts, as well as increased public education of the effects of copyright theft.

Although on-line copyright piracy is on the rise, federal law enforcement efforts to investigate and prosecute those crimes have not kept up to speed with the piracy. Strapped by insufficient funding and training, these federal law enforcement agencies need additional resources to combat intellectual property crimes.

H.R. 2517, the Piracy Deterrence and Education Act of 2003, is a commonsense bill that gives federal law enforcement the tools it needs to prosecute intellectual property crimes. The bill also includes provisions designed to facilitate public education about the devastating effects of copyright crimes. Specifically, the bill (1) requires the FBI to create a deterrence program that prevents online piracy, (2) encourages information sharing among law enforcement, Internet Service Providers, and copyright owners, (3) requires that the DOJ specifically dedicate one agent within each Computer Hacking and Intellectual Property Unit to investigate intellectual property theft, and (4) establishes a program within the Office of the Attorney General to educate the public about copyright law, privacy, and security with respect to Internet use.

I believe that H.R. 2517 is an important step in the fight against copyright piracy and I look forward to the testimony of the witnesses today on this important legislation.

PREPARED STATEMENT OF THE HONORABLE ZOE LOFGREN, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF CALIFORNIA

We are here once again to discuss ways to deter and punish Internet piracy. Online piracy is indeed a threat to America's copyright owners, and I'm glad that this Congress is taking the issue seriously.

But I am becoming increasingly dismayed by the fact that this Subcommittee only examines digital issues from one perspective. We have had numerous hearings this year on how online piracy affects content owners. Today, we are having yet another one, with four witnesses who seemingly support the bill we are considering. Among them, we have a witness from Universal Studios, who will no doubt tell us of the devastating effect that online piracy is having on movie studios. But according to statistics I've seen, yearly domestic box office gross has increased every year since 1992, including an 8.6% increase last year to over \$9 billion dollars.

If you want to see an industry in turmoil, don't look to the movie industry, look to the technology industry. Unemployment in Silicon Valley is now 8.5%. One-third of households in Silicon Valley have experienced a layoff since January 2001. Consumer confidence and investment are down. It is not a recession in the tech world, it is a depression.

I do not make this point to downplay the piracy issue, nor to suggest that the content industry is not suffering from online piracy. My point is that this Subcommittee should examine digital issues from all sides, not focus solely on how they affect copyright owners. We should look at how our laws affect the technology industry. We should examine whether or not the DMCA is chilling investment and innovation.

My bill, H.R. 1066, the BALANCE Act, which is supported by my Judiciary colleagues Rick Boucher and Chris Cannon, seeks to address some of these issues. I hope this Subcommittee will hold a hearing on this legislation soon, or at the very least look at how laws under our jurisdiction affect the technology industry, as well as Hollywood.

PREPARED STATEMENT OF THE AMERICAN FREE TRADE ASSOCIATION

This testimony is offered on behalf of the American Free Trade Association (AFTA). The American Free Trade Association is a not-for-profit trade association of independent American importers, distributors, retailers and wholesalers, dedicated to preservation of the parallel market to assure competitive pricing and distribution of genuine and legitimate brand-name goods for American consumers. The parallel market embraces a broad range of products but AFTA's members have historically been involved in sale and distribution of fragrances, colognes, health and beauty aids (e.g. shampoo, soap, etc.).

AFTA has been an active advocate of parallel market interests for nearly twenty years. It has appeared as amicus curiae in the two leading Supreme court cases affirming the legality of parallel market trade under the federal trademark, customs and copyright acts (the 1985 Kmart case and the 1998 Quality King case) and in numerous lower court decisions.

SUMMARY POSITION

AFTA is concerned by Section 6 of H.R. 2517, which would expand the authority of Customs officials to seize genuine articles at U.S. Ports of Entry on behalf of U.S. copyright owners to circumstances in which the copyright owner has neither recorded its federal registration with the Bureau of Customs and Border Protection (CBP) nor, in fact, even registered its copyrighted material with the U.S. Copyright Office. By removing both of these pre-requisites for border enforcement of intellectual property rights, H.R. 2517 eliminates the ability of importers and international traders to determine what may or may not be permitted entry into the United States and facilitates monopolistic control over U.S. distribution and pricing of authentic merchandise by U.S. manufacturers alleging to own exclusive rights in intellectual property for which there has been no objective determination as to copyrightability.

GENERAL DISCUSSION

I. Any tangible expression of an idea may be copyrightable—whether or not the product itself is eligible for such protection.]

AFTA members understand that the genesis for H.R. 2517's border enforcement provision may be legitimate concerns expressed by the entertainment industry about

the rise in “bootleg” motion pictures. However, there is nothing in the existing language which would limit the scope of products for which CBP will have this expanded statutory seizure authority for alleged infringement of unregistered and unrecorded U.S. copyrights. Accordingly, labels on cosmetic bottles would be subject to this legislation to the same extent as proprietary software; perfume packaging would be as risky an import as unauthorized copies of first-run movies. As drafted, Section 6 of H.R. 2517 would, without cause, reason or purpose, apply equally to hair barrette packaging and unauthorized reproductions of not-yet released phonorecords.

AFTA does not suggest that a mere limitation in scope would be sufficient to otherwise remedy its overall concern about elimination of the requirement that intellectual property owners invest in at least federal copyright registration and recordation in order to enjoy the benefits of border enforcement of their private rights by government employees. Fair notice to legitimate importers and exporters to avoid restricted goods, or to challenge inappropriate claims for restriction, must be preserved.

II. Although federal copyright registration is not a requirement under U.S. law, because it serves the purpose of creating a public record of enforceable IP rights, the U.S. Copyright Act does expressly encourage and reward such federal copyright registration.

Following is text found in the U.S. Copyright Office’s publication entitled “Copyright Basics” which describes the benefits of federal copyright registration (<http://www.copyright.gov/circa/circ1.html>):

Even though registration is not a requirement for protection, the copyright law provides several inducements or advantages to encourage copyright owners to make registration. Among these advantages are the following:

- Registration establishes a public record of the copyright claim.
- Before an infringement suit may be filed in court, registration is necessary for works of U. S. origin.
- If made before or within 5 years of publication, registration will establish prima facie evidence in court of the validity of the copyright and of the facts stated in the certificate.
- If registration is made within 3 months after publication of the work or prior to an infringement of the work, statutory damages and attorney’s fees will be available to the copyright owner in court actions. Otherwise, only an award of actual damages and profits is available to the copyright owner.
- Registration allows the owner of the copyright to record the registration with the U. S. Customs Service for protection against the importation of infringing copies.

It is clear that while federal copyright registration is not required, it is encouraged. As a type of “trade-off” for voluntarily creating a public record of enforceable rights, which the U.S. Copyright Office makes available to any party interested in researching existing U.S. copyrights, the federal copyright registration holder is provided with the ability to file an infringement action, recover increased damages for infringement and has the right to record its copyright registration with U.S. Customs.

The U.S. Copyright Office recognizes the value of the public record for purposes of fair trade, fair use and free circulation of copyrighted materials. The U.S. Copyright Office also realizes that border enforcement is a privilege reserved only for those copyright owners committed to those same ideals. H.R. 2517, however, by statutorily removing such incentives for U.S. copyright registration, creates no obligation on U.S. intellectual property owners to facilitate a competitive marketplace for the benefit of lawful traders or American consumers. Moreover, H.R. 2517 eliminates any such public record of enforceable U.S. copyrights making such enforcement arbitrary, capricious and, in and of itself, a type of non-tariff trade barrier.

III. Without copyright registration, there is no means to verify a copyrightable property and border enforcement of U.S. intellectual property rights becomes solely a measure to territorially control and monopolize product distribution.

While anything may be claimed to be copyrighted upon creation even without federal copyright registration, it is only through the process of securing federal copyright registration that any determination as to enforceable rights under U.S. Copyright law is determined. This is because while a claim to copyright may be automatic, copyright registration (and, as a result its concomitant benefits and rewards) is not a foregone conclusion upon the mere filing of an application.

A) Copyright protection is not available to ideas, or information without original content or creation nor does it extend to useful articles. Section 102 of the U.S. Copyright Law specifically provides the following:

(b) In no case does copyright protection for an original work of authorship extend to any idea, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such work.

B) At the time of application, the Registrar of Copyrights determines copyrightability. Section 407 of the U.S. Copyright Law provides the following:

(a) When, after examination, the Register of Copyrights determines that, in accordance with the provisions of this title, the material deposited constitutes copyrightable subject matter and that the other legal and formal requirements of this title have been met, the Register shall register the claim and issue to the applicant a certificate of registration under the seal of the Copyright Office. The certificate shall contain the information given in the application, together with the number and effective date of the registration.

(b) In any case in which the Register of Copyrights determines that, in accordance with the provisions of this title, the material deposited does not constitute copyrightable subject matter or that the claim is invalid for any other reason, the Register shall refuse registration and shall notify the applicant in writing of the reasons for such refusal.

Should CBP be permitted to deny importation to products for purported violation of U.S. copyright laws without requiring an underlying federal copyright registration, CBP will be eliminating examination to determine whether any enforceable rights exist. U.S. Copyright law provides that federal registration is only granted once such an examination has been successfully completed and, without federal registration, there is, under existing U.S. law, no ability to record a copyright with CBP. To contradict this long-standing U.S. law by incorporating in H.R. 2517 a provision doing away with both registration and recordation is, at least, of great concern.

CONCLUDING REMARKS

AFTA recognizes the importance of legislation seeking to eliminate digital fraud and piracy and, for this reason, requests that Section 6 of H.R. 2517 be eliminated entirely as a controversial measure that must be reconsidered in light of existing U.S. Copyright law and free trade objectives. H.R. 2517 was introduced on June 19, 2003 with no publication or hearing on its Section 6—a provision that would compromise the tenets of long-standing U.S. copyright law and that will have a chilling effect on free circulation of articles which purportedly are copyright-protected. In this short time, AFTA has not been able to consult sufficiently with its members and others operating within the parallel marketplace to provide substantive solutions to its obvious deficiencies.

AFTA does, however, look forward to working with the initial sponsors and co-sponsors of this legislation on finding a solution to the problems and concerns giving rise to Section 6, while not prejudicing the legitimate business operations of AFTA's members and others within the importing community. If the legislation is to move ahead at this point, we urge elimination of the language in H.R. 2517 in Section 6 for the reason that it would erect a barrier to free trade, would eliminate incentives for U.S. copyright registration and would encourage CBP's resources to be used for enforcement of intellectual property rights that may not even be enforceable under U.S. law and would go well beyond the purpose of the legislation.

Thank you for the opportunity to provide this testimony to the Subcommittee.

PREPARED STATEMENT OF GARY J. SHAPIRO

Since January 17, 1984, it has been settled law that consumers are protected by an aura of quiet enjoyment in their use of home entertainment technology. On that date, the U.S. Supreme Court found that unauthorized recording of an entire audio-visual work may be a "fair use," and held that a product with a substantial or commercially significant non-infringing use may be lawfully distributed to consumers.¹ The Home Recording Rights Coalition (HRRC) hopes that, as we approach the 20th

¹ *Sony Corporation of America v. Universal City Studios*, 464 U.S. 417 (1984)—the "Betamax" case.

anniversary of this decision, the personal freedoms it recognized will not be chilled out of reaction to further technical advances.

HRRC was founded in October, 1981, when personal use of new technology had been cast into doubt by a decision declaring the sale of consumer video recorders to be illegal. Originally, a consumer and a retailer had been sued along with the device manufacturer. However, editorials and editorial cartoons gave such emphasis to the prospect of civil and criminal action against ordinary consumers and their children that these defendants were dropped. It is now a cliché to point out how severely some in the entertainment industry and in the Congress reacted to home video and audio recording, and that the consumer electronics devices that enable such recording have served as foundations for new and enormous content industries. Yet when these industries face challenges from even newer technology, the risk of over-reaction emerges again.

The bill being considered today, H.R. 2517, would engage our criminal, law enforcement, and border processes in areas that may intrude into ordinary consumer conduct:

- It suggests that all unauthorized consumer copies of copyrighted works are infringing;
- It would involve the Federal Bureau of Investigation in development of a program to “deter” certain consumer conduct, including unauthorized home recording;
- It would tie up investigational resources, now addressed to serious “computer hacking” crimes, with activities that may involve simple consumer home recording;
- It would establish an Education Program within the Office of the Associate Attorney General;
- It would remove registration and recordation requirements with respect to criminal and border enforcement; and
- It would authorize routine use of the FBI Seal on designated copyrighted works (but not on others).

HRRC must oppose this legislation. We urge further study of these proposals. We have strong concerns over any legislation that would shrink the aura of personal privacy and security that attaches to home use.

The Internet ties homes and institutions together in some ways that are clearly positive and some that are seen as threatening to content owners. It is tempting to chill, constrain or even criminalize all ties and practices that are considered potentially threatening. But to do so would be just as short-sighted as it would have been to outlaw consumer tape recorders in 1984.

First, H.R. 2517 should not brand all unauthorized consumer home recording as criminal, or as a copyright infringement, merely because the content is obtained “from the Internet.” 17 U.S.C. § 107 assures that certain unauthorized “fair uses” of content do not constitute copyright infringement, and provides for no exception according to source. Indeed, just this week, it was announced that the largest Internet Service Provider, which is closely affiliated with a major motion picture studio, would facilitate home recording via the scheduling information it carries on its service.²

Second, whether the content is from the Internet or otherwise, the FBI should not be involved in gathering data on private home recording practices of individuals. Federal law prohibits as an invasion of privacy the disclosure of data about video rental transactions,³ which depend for their legality on 17 U.S.C. § 109—another exception to general copyright principles. Private noncommercial home recording protected by Section 107 is no less lawful than the rental transactions protected by Section 109; consumers engaging in this practice are entitled to the same measure of consumer privacy. Moreover, the “sharing” of information on consumer practices, among law enforcement agencies and private groups, as also provided for in Section 3, has the potential to aggravate privacy abuses with respect to lawful behavior.

Nor should the FBI or other law enforcement agencies be involved in issuing “warnings” to consumers about activity that may in fact be entirely legal. In HRRC’s view this would raise constitutional issues. Many such cease and desist “warnings” issued in the private sector have turned out to be erroneous. Moreover, a new “deterrence” responsibility would detract from the FBI’s traditional roles of investiga-

² “TiVo Offers Remote TV Programming to AOL Users,” Reuters, July 14, 2003.

³ See Video Privacy Protection Act, 18 U.S.C. § 2710.

tion and law enforcement. Only in the context of national security has such a diversion of resources been made.

Third, HRRC is concerned about the requirement in sec. 4 that intellectual property specialists be attached to any unit responsible for investigating computer “hacking.” A mandatory, administrative tie between ordinary consumer practices—or even ordinary piracy—and “hacking” may do justice to neither issue. While content providers have been taking steps to improve the security of their theatrical editing, distribution, and screening practices, it is widely acknowledged that purloining films and distributing them illegally commonly does not involve “hacking” or, indeed, the circumvention of any technical measure. Rather, unprotected copies emerge from the distribution chain or from early or overseas theatrical display.

Even when these vulnerabilities have been addressed through better electronic and physical security, it is difficult to see how adding specialists in intellectual property crimes to “hacking” units will improve their efficiency. The protective measures used in the entertainment industry are likely to be proprietary and best enforced by commercial entities. Any productive use of “hacking” resources would likely involve a sharing of proprietary “keys” and other commercial secrets with the government investigators. This would pose long term threats both to the content and to the willingness of others to rely on these proprietary technologies.

Fourth, while HRRC has great respect for the Office of the Associate Attorney General, we do not believe that law enforcement authorities should take the lead in any public education campaign where so much of the conduct involved is, in fact, legal. The requisite balancing, line-drawing, and recognition of lawful practices involved in any appropriate campaign could compromise the ability of the Justice Department to prosecute cases in circumstances where it believes such prosecution is warranted. DOJ cannot be both arbiter and advocate. Either the “educational” or the advocacy function of the Justice Department would have to be compromised.

Fifth, in light of the fact that fair use is recognized by both the U.S. Code and the Supreme Court, HRRC strongly opposes the notion that the FBI Seal be routinely used on content, for the purpose of intimidating consumers. Moreover, U.S. law provides that all writings are copyrighted when fixed, but the bill would make the seal available only for selected writings. It would be grossly discriminatory and probably unconstitutional, as a violation of free commercial speech, for the Attorney General to award such status only to some writings, but not to others, as the bill contemplates. Yet surely the Congress would not want the FBI Seal awarded to all writings occurring within U.S. borders.

Finally, HRRC believes that evidence should be adduced as to why the registration prerequisite for a criminal copyright case should be less than that for a civil case, and as to the need to eliminate existing registration and recordation preconditions to border enforcement. HRRC, however, agrees that enforcement against commercial piracy, at the border and otherwise, is an important law enforcement activity and should receive appropriate resources and legal tools.

The Home Recording Rights Coalition appreciates this opportunity to submit its views. As we have for more than two decades, we look forward to cooperating with the Subcommittee and the Committee to help achieve a proper balance between public and proprietor interests in copyright.

PREPARED STATEMENT OF SUSAN POOLE

My name is Susan Poole. In the past three years I have been subscribed involuntarily to various spamming sites, my website and personal email accounts have been threatened, I have received abusive and threatening mail and been the target of a barrage of obscene, insulting and vicious messages in various online discussion groups. Why?

Not because I am a celebrity, or because I'm a gangster or pornographer or anything that you would imagine to be the usual causes of such activities. It's because I chose to spend three years of my life tracking down, documenting and attempting to curb the widespread problem of online infringement of copyrighted material as it relates to the needlework and crafts industries. This was strictly on a voluntary basis, in conjunction with two other very concerned and persistent women, Linn Skinner and Barbara Horton.

I'm not a professional investigator. I'm a full-time mother and have been a needlework designer on a very limited basis over the years. My designs never sold in quantity nor did I ever make a profit from the limited sales of my designs. Yet, other designers do sell in quantities, do make a living from their work and do need the help and protection of the US government. Copyright infringement damages the needlework community daily. It takes away income from designers who produce their own work, self-publishing and often producing their entire catalogue of designs on a kitchen table or small worktop. They are not multi-national corporations with deep pockets, they don't have stables of lawyers to defend their interests; in fact most of them couldn't afford the expense of a lawsuit to defend their copyright. Designers who are faced with the issue of pursuing a lawsuit or going into another line of work often choose the latter rather than create designs that are scanned and uploaded by the infringers within days of publication.

How did I start with the issue of copyright infringements online?

Several years ago a message on a Usenet newsgroup caught my eye. A woman was asking for help on setting her scanner to get the best quality when making scans of various needlework charts she wanted to upload to a group online. I made a reply to the effect that perhaps the charts should not be scanned and the designs in question should be legitimately purchased. Little did I know then that the floodgates of invective, anger and sheer indifference to the laws of copyright would be opened.

While the discussions continued online various people from radio, newspapers and television asked for comment on the issue. I sent the following letter by email to someone asking for comments from NPR.

The discussions on the Usenet group `rec.crafts.textiles.needlework` (commonly abbreviated by its participants as `r.c.t.n`) on the issue of copyright infringement have gone on for a number of years. When the issue of Napster came into the limelight, various other associated problems of copyright also were examined. The first was in an article by PJ Hufstutter in the LA Times:

<http://www.latimes.com/news/state/20000801/t000072072.html>

The article set off a small firestorm of discussion. Most notably, one of the people

interviewed by Ms Hufstutter, Carla Conry, posted a message to the Usenet group r.c.t.n. The following URL leads to the entire discussion archived by Google.com:
<http://tinyurl.com/guou>

An examination of this thread shows two very distinct and opposing points of view, the general needlework public decrying the infringement of copyright and the smaller group that claim the right to do anything the like with materials they have purchased. If the entire thread is read from start to finish the sense of frustration in trying to get the infringing group to discuss the actual illegalities involved will come through very clearly. Although this is not the only discussion on the topic it is a perfect illustration of not only the problem of infringement of needlework designs but also the culture of 'sharing' that exists around the main problem. The people who participate in the infringements know that there is little the designers can do to stop them. They post in public with impunity about their activities knowing full well that most designers have neither the resources for an Internet-wide search of the infringement sites or the money to pursue them when the infringements occur. All the quotes below are reproduced exactly as they appear, all spelling, grammar and typographical mistakes kept as originally posted.

"As for being called a thief. I BOUGHT AND PAID FOR EVERY PATTERN THAT I EVER SHARED."

"...Do you make law? Or enforcement them? You probably can't control your own life that is why you are try to control everyone else. Well it won't work. I just got thru sharing another pattern. Doesn't that just piss you off?"

"--- In copy_rights@yahoogroups.com, "TROLLS_ARE_TROUBLE" <TROLLS_ARE_TROUBLE@P...> wrote:
 You know what I don't care if it was from a group or if Su did write it. LET ME TELL YOU WHAT....WHEN I BUY A BOOK IT IS MINE, AND I WILL DO WHAT I WANT WITH IT.
 SOMEONE FROM THE GROUPS DIED TODAY AND IT MADE ME REALIZE THAT IT'S NOT WORTH ARGUING WITH YOU OVER IT. BECAUSE NO MATTER WHAT ANYONE SAYS YOU PEOPLE THINK YOU ARE RIGHT ALL THE TIME. I HAVE BETTER THINGS IN LIFE TO DO.
 BUT DO REMEMBER I WILL SHARE MY BOOKS WITH WHO EVER I WANT. I WILL SCAN AND SHARE. AND DON'T WORRY ABOUT UNSUBBING ME I'M LEAVING YOUR JERK OF A GROUP.
 IT'S A JOKE AND YOU WILL NEVER GET IT STOPPED. YOU PEOPLE ARE HYPOCRITES AND NEED TO GET A LIFE....."

Even worse, there was a group that required people to provide a chart to prove their willingness to participate in the 'sharing'. Please note the definition of 'sharing' and the justification that the crisis of 9/11 means that the exchange of these files will help them relax from the threat of terrorism.

"The List Mom is right in asking that everyone post a pattern. There are a lot of unfamiliar addy's on this list right now and to be on the safe side, posting a pattern is the best bet. Now, I understand a lot of you are new and not sure how to post. We'll help you. There are a lot of us here and I'm sure someone can explain how to send attachments if you just ask. If you don't have a pattern to send, I'll send you one privately and you can then download it to your own system and send it from your own addy. Will that help? This is called sharing, for any trolls who may be lurking right now...sharing and helping. To clear things up...we're not afraid of the trolls, they are simply a nuisance we all choose not to deal with. (portion deleted about Sept 11 attacks)

Making friends and sharing with our friends is a good way to keep our minds off the troubling events in our country and abroad....it can literally take away a ton of stress after a long day of dealing with the scary events we're living through. So let's pull together, help each other, help the List Mom and the ladies who are co-moderating. Just my 2 cents, hope I didn't step out of line here. Just trying to help those who say they need help..."

There is a selective element to the 'sharing' that goes on. Designers who have a reputation for pursuing infringements are left alone. Others aren't so lucky:

"Apparently You can not read in simple terms Rita I do not and I did not share any of Marilyn's Patterns or anyone elses that belong to this Newsgroup. Read for a change."

"What is stealing? That too should be left up to the courts. Who are you to judge anyone on stealing? Speaking for myself. I have stolen nothing. I have paid for any pattern that I have shared with my friends and as far as I am concerned I can do with them what I want. I will continue to share until a court of laws says that I can't."

These comments are a miniscule sampling of the messages posted not only on r.c.t.n but also on many other groups many of which were created expressly for the purpose of distributing files containing the scanned images of copyrighted needlework materials. The distribution of these files takes place daily, in amounts that are astonishing. Three years ago a group of dedicated needlewomen undertook a survey of just one small group that routinely uploaded these sorts of files. The results were compiled and are available online at Linn Skinner's site:

<http://www.skinner SISTERS.com/copyright/>

The results of this single group are eye-opening. Over 49,500 links to patterns scanned and uploaded without permission of the copyright holder. This was three years ago and only examined one of several hundred groups known to be active at the time. Since then, many more groups have come on the scene, hidden in various ways from the designers who work to find them and get their work removed from the files. That is, if they can find the groups. They have become very sophisticated in the way they handle membership to the online file sharing sites they organize. Membership may be predicated

upon willingness to scan and upload a certain number of items, or provide items that have not already been placed in the files. Questionnaires are presented to prospective members, requiring personal information and their thoughts on the issue of copyright. Designers are summarily rejected for membership, using an alias is almost never successful. The whole tone of the culture smacks unpleasantly of a gang membership initiation or of a cult.

"

From: bubbles01964
 To: PatternPiggiesUniteAgain@yahoo.com
 Sent: Saturday, December 15, 2001 2:28 AM
 Subject: [PatternPiggiesUniteAgain] UpDate Notice

Ok The Archives are turned off til 10AM Pacific Time Also Please send a Pattern in Before you change your settings Back to where they were before No Exceptions. No Free Patterns Are Allowed."

Small businesses such as designers who self-publish simply cannot take the damage dealt to them by such infringement practices. When sales of a chart number only in the hundreds a year, then each time the chart is scanned and uploaded to a file-sharing group, the potential for sales diminishes by a number greater than the total sales for the year. Tracking down these infringements takes time, patience and stamina. Some groups post an average of several hundred files a day, sometimes entire books go through the files page by page. How can an individual cope with this? How can they find the nooks and crannies that host these groups? Who has time or resources or money to pursue this on an individual basis?

In addition to the problem of time and money to pursue the infringements, there is the issue of combating the attitude of the participants. Many of them know they've been able to upload copyrighted material for years without any sort of legal action taken against them. They use the lack of such legal actions as validation of their activities. After all, if no one sues them it can't be illegal, right?

I have personally spent thousands of voluntary hours on the issue, working to document infringements. I have sent information to copyright holders, corporations such as Disney, the NFL, the NASCAR conglomerate... the list is endless. In general they don't pay attention to the problem simply because the effort of tracking down each individual infringement in the morass of hidden groups, false email addresses and the sheer mass of files uploaded make it less attractive than to ignore the problem. Either that, or as in the case of the NFL letter in endnote viii, they simply don't comprehend the issue. If large corporations can't be bothered to act under the present legislation how much less able to act will small businesses or individuals be?

The worst part of the problem is that there is no simple, legal way to get access to these groups. On such sites as Yahoo, anyone can set up a group for any reason. They can conceal it from the eyes of the world by simply not listing the group in the main list, put it in a category that doesn't normally have anything to do with needlework patterns or

describe the group in innocuous terms that don't ring alarm bells with someone conducting a search for groups carrying on infringements through file-sharing. The list owners or 'list moms' as they call themselves are practiced at keeping out designers who may try to gain access to the groups to monitor uploads of material. Various discussions and lists are circulated among the various list owners warning of potential infiltration by a designer who may try to access a suspect group. Sometimes these groups hide their presence in the 'adults-only' section of Yahoo. The group whose presence is now hidden by the description 'we share our horror stories about wild animal attacks' is currently in the 'Outdoors' category on Yahoo. A direct link to this very active group is: <http://groups.yahoo.com/group/Letsallshareandhavefun/>

In order to actually read the messages you must be a member of the group. Yahoo or the group owners are the only people who can provide that access. In addition, as it's a private group, unlisted in the main directory and with restricted membership it's virtually invisible to the average person conducting a search of groups that share files of copyrighted material. Their most recent uploads include an entire Leisure Arts book, a total of 43 separate files of scanned material. The endnote shows the direct links to a sample of the images available directly from that site including front covers and chart pages from a number of items most recently uploaded by various members of the group. This particular group has 8292 messages, many with multiple files per message. The owners of the copyrighted materials cannot access the group to ascertain the infringements; they don't have a membership in the group. I am aware of this group because an ID was placed in it several years ago during one of the group's previous incarnations. Linn Skinner, Barbara Horton and myself have maintained various ID accounts over the past three years to monitor such file-sharing groups. Of the several hundred we used to monitor we still have access to two or three via this one ID.

Yahoo does not have any legal requirement to permit people into a private group to examine it for potential copyright infringement activities. To get infringing files removed you have to get into the group to find them. If you can't get into the group how can you ascertain which of your works are being uploaded without permission? I have contacted Yahoo on numerous occasions, describing the groups, their activities, sending sample pages and requesting access to groups to determine which files have been loaded to the storage areas of various groups. Yahoo's only response is to suggest that if a designer cannot get in via a legitimate ID they should create various aliases to infiltrate the groups. In the past three years I cannot recall a single instance of Yahoo actually allowing someone into a suspect group to check the file list. That means that the thousands of files held on Yahoo servers are spread out among the file-sharing groups with no one to stop them. It is vital that there be a way for legitimate enquiries be met with access to clandestine groups. Surely a group called 'letsallshareandhavefun' might seem a potential for such examination?

For the past three years I have created and run with the help of Linn Skinner and Barbara Horton two groups on Yahoo. The first, called 'Copywrongs' was for the designers to discuss the issues of copyright infringement, how to handle various sites that were openly infringing on various copyrighted designs and how to educate the public on the topic. It

is no longer in operation; instead a second group was created with open membership. It is called 'Copy Rights' and is an open forum for the discussion of the issue of online infringement of copyrighted material such as needlework designs. The URL for this group is:

http://groups.yahoo.com/group/copy_rights

It is sometimes extremely active, occasionally combative but it does contain a lot of discussion on the topic that is useful for background information on the subject. Some of the messages excerpted in the endnotes come from this group. I also maintain an archive of every message posted in this group.

To end this I would simply like to say that the issue of infringement affects every industry that copyrights its efforts. Some industries have deep pockets and can take the steps required to protect their rights. The needlework industry is simply not one of those. We are made up mostly of individuals with talent and skill, but not with the ability to spend their lives trying to enforce a basic right. It would be a wonderful world if everyone followed the laws and didn't act in ways that required more and more regulation every day. For the people who deserve the same protection under the law as the large corporations, it should be the work of the government to help us help ourselves. We need someone to give us the tools to enforce our rights under the law. Otherwise as an industry we simply won't survive.

After three years of working on this subject, being ignored by the industries affected and attacked by the participants in the uploading of copyrighted material without permission, myself and my friends have simply given up on actively pursuing or notifying the various parties involved. The laws make it impossible for us to act on infringements, the cost of working to get the infringing materials removed makes it prohibitive for individuals and small companies and the lack of access to the sites makes it difficult to document what is going on. It's time for the government to take steps to help protect the rights of the citizens who are entitled to help in making sure that their artistic expressions don't get stolen and scattered across the world via the Internet and the Web.

Thank you.

-Susan M Poole

Glossary

chartlifting: an expression coined to describe the actions of the groups who scan and upload copyrighted material without the permission of the copyright holder. A combination of the words charts and shoplifting.

FD: fashion doll such as Barbie TM or other similar figures

PC: Plastic canvas needlework, a popular craft worked on sheets of perforated plastic using yarns to create three-dimensional items.

share: to scan and upload copyrighted material for redistribution via electronic and online sources for other participants without charge

"Lastly we share patterns. many are out of print. Most are unavailable elsewhere. We do not post them to the Internetsites for everyone who wants a copy. We post them to our friends in Private groups so that our sharing can continue from the friends we know to the needy we may never know.

Yes, occasionally a pattern that is still available may go through. Nothing in this world is perfect."

thread: an ongoing discussion in a Usenet newsgroup that contains a main message and subsequent replies generally arranged in chronological order.

troll: a Usenet expression describing a person who joins a group for the specific purpose of posting messages in an inflammatory style to cause maximum disruption of the group. The term was co-opted by the 'Pattern Piggies' to describe anyone who wants copyright infringements stopped

